



**OFFICE OF THE ATTORNEY  
GENERAL**

**TAXATION DIVISION**

**COMPTROLLER OF PUBLIC ACCOUNTS  
CASE LIST AND SUMMARY OF ISSUES**

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# Franchise Tax

## **3 Beall Brothers 3, Inc. v. Rylander, et al.** Cause #GN002755

AG Case #001354026

Franchise Tax; Refund	Asst. AAG Assigned:	Christine Monzingo
Filed: 09/15/00		
Period: 1993	Plaintiff's Counsel:	Mark W. Eidman
Amount: \$265,995		Ray Langenberg
		Scott, Douglass &
		McConnico
		Austin

Issue: Whether the franchise tax was applied retroactively to deny Plaintiff a business loss carry forward. Whether the officer and director compensation add-back is unconstitutional.

Status: Answer filed.

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## **American General Corp. v. Rylander, et al.** Cause #GN003178

AG Case #001375419

Franchise Tax; Protest	Asst. AAG Assigned:	Christine Monzingo
Filed: 10/31/00		
Period: 1994-1998	Plaintiff's Counsel:	Mark W. Eidman
Amount: \$2,131,754.78		Ray Langenberg
		Eric Hagenswold
		Scott, Douglass &
		McConnico
		Austin

Issue: Whether intercorporate receipts should be excluded from gross receipts. Whether certain obligations were debts. Whether the Comptroller's application of the debt deduction statute violates equal protection. Whether an indirect tax on post-retirement benefits violates ERISA and the supremacy doctrine. Whether interest should be waived. Whether the assessment violates equal taxation, equal protection, due process, commerce clause, the Tax Code, the Administrative Code, was in excess of statutory authority, was made through unlawful procedure, and was arbitrary and capricious.

Status: Non-suited.

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***Anderson-Clayton Bros. Funeral Home, Inc.; Restland of Dallas, Inc.; Restland Funeral Home; Singing Hills Funeral Homes, Inc.; Laurel Land Funeral Home of Fort Worth, Inc.; Blue Bonnet Hills Funeral Home, Inc.; and Blue Bonnet Hills Memorial Park, Inc. v. Rylander, et al.*** Cause #99-12183

AG Case #99-1227646

Franchise Tax; Refund Filed: 10/18/99 Period: 1993-1996 Amount: \$407,212.91 \$107,861.97	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Jan Soifer Locke, Liddell & Sapp Austin
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Issue: Whether income earned on Plaintiff's trust accounts for prepaid funeral services gives rise to Texas gross receipts.

Status: Discovery in progress. Trial set 05/05/03.

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***CTX Mortgage Co., LLC, as Successor in Interest to CTX Mortgage Co., Inc. v. Strayhorn, et al.*** Cause #GN300145

AG Case #031738131

Franchise Tax; Protest, Refund & Declaratory Judgment Filed: 01/15/03 Period: 1992-1994 Amount: \$6,482.90	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  David Cowling Robert Lochridge Jones Day Dallas
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Issue: Whether application of the requirement of documentation that officers do not participate in significant policy-making aspects of the corporation is retroactive and unconstitutional. Whether different treatment of banks and mortgage companies violates equal protection. Whether Plaintiff's vice presidents and others should not be included in the officer add-back provision of the franchise tax. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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**Central Telephone Co. of Texas and United Telephone Co. of Texas v. Rylander, et al.** Cause #GN100332  
AG Case #011409646

Franchise Tax; Protest & Refund	Asst. AAG Assigned:	Blake Hawthorne
Filed: 02/01/01	Plaintiff's Counsel:	Mark W. Eidman
Period: 1988-1994		Ray Langenberg
Amount: \$300,772.95		Scott, Douglass & McConnico
\$204,616.25		Austin

Issue: Whether inclusion of access charges in Texas' gross receipts violates Comptroller rules on franchise tax treatment of interstate telephone receipts. Whether inclusion of the charges violates equal protection.

Status: Answer filed.

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**Delco Electronics Corp. v. Sharp, et al.** Cause #97-12045  
AG Case #97-843052

Franchise Tax; Refund	Asst. AAG Assigned:	Christine Monzingo
Filed: 10/22/97		
Period: 1992-1995	Plaintiff's Counsel:	L.G. Skip Smith
Amount: \$536,478		Clark, Thomas & Winters
		Austin

Issue: Whether interest, rental and royalty income earned by Plaintiff should not be included in income because it was derived from discrete business enterprises that served an investment, rather than an operational function, and the activities producing the income were not part of the unitary business conducted by Plaintiff in Texas.

Status: Settled.

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**First Co. v. Rylander, et al.** Cause #GN200229  
AG Case #021556980

Franchise Tax; Refund & Declaratory Judgment	Asst. AAG Assigned:	Christine Monzingo
Filed: 01/24/02	Plaintiff's Counsel:	James F. Martens
Period: 1996 through 1999		Christina A. Mondrik
Amount: \$1,919,109		Stahl, Martens & Bernal
		Austin

Issue: Whether the throwback rule is unconstitutional and violates P.L. 86-272. Whether apportionment under the throwback rule, when compared to a separate accounting method, creates such a gross disparity in taxable income as to be unconstitutional. Plaintiff also seeks declaratory judgment and attorneys' fees.

Status: Answer filed.

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**Harcourt Brace Jovanovich Legal & Professional, HBJ Farm Publications, Psychological Corp., Drake Beam Morin, Inc. and Holt Rinehart & Winston, Inc. v. Sharp, et al.** Cause #97-03795  
AG Case #97-706290

Franchise Tax; Protest and Declaratory Judgment	Asst. AAG Assigned:	Blake Hawthorne
Filed: 03/28/97	Plaintiff's Counsel:	Jess M. Irwin, III
Period: 1987-1990		Steven D. Moore
1989-1991		Jackson & Walker
1988-1991		Austin
Amount: \$243,469 (total of all)		

Issue: Whether inter-company payable account obligations should have been excluded from debt for purposes of calculating franchise tax. Attorneys fees.

Status: Plaintiffs presented written settlement offer.

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**Holt Rinehart & Winston, Inc., Drake Beam Morin, Inc., Harcourt Professional Education Group, Inc., The Psychological Corp. v. Rylander, et al.** Cause #GN100985  
AG Case #011433455

Franchise Tax; Protest & Declaratory Judgment	Asst. AAG Assigned:	Blake Hawthorne
Filed: 04/03/01	Plaintiff's Counsel:	Steven D. Moore
Period: 1992-1994		Jackson Walker LLP
Amount: \$512,387.46		Austin

Issue: Whether intercompany payable account obligations should have been excluded from debt for purposes of calculating franchise tax. Attorneys fees.

Status: Answer filed. Comptroller considering settlement offer.

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***Inova Diagnostics, Inc. v. Rylander, et al.*** Cause #GN201829

AG Case #021626213

Franchise Tax; Refund &  
Declaratory Judgment

Filed: 06/03/02

Period: 1997 & 1998

Amount: \$275

\$347

Asst. AAG Assigned:

Steve Rodriguez

Plaintiff's Counsel:

Gilbert J. Bernal, Jr.

Christina A. Mondrik

Stahl, Martens & Bernal

Austin

Issue: Whether taxpayer has nexus with Texas. Whether the capital- based franchise tax is measured by net income for purposes of P.L. 86-272. Whether the Comptroller wrongfully forfeited plaintiff's corporate privileges. Plaintiff also seeks attorneys' fees.

Status: Discovery in progress. Trial set 03/24/03.

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***May Department Stores Co., The v. Sharp, et al.*** Cause #98-06899

AG Case #98-983559

Franchise Tax; Refund

Filed: 06/26/98

Period: 1991-1995

Amount: \$207,375

Asst. AAG Assigned:

Christine Monzingo

Plaintiff's Counsel:

L.G. Skip Smith

Clark, Thomas & Winters

Austin

Issue: Whether Plaintiff's officer and director compensation should be added to taxable surplus for franchise tax purposes.

Status: Retained on suspense docket. See *Palais Royal & 3 Beall Brothers 3, Inc. v. Comptroller*.

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***Network Security Acceptance Corp., as Successor in Interest to Network Security Corp. v. Sharp, et al.*** Cause #95-15698

AG Case #96-437029

Franchise Tax; Protest

Filed: 12/21/95

Period: 1986-1987

Amount: \$355,619

Asst. AAG Assigned:

Christine Monzingo

Plaintiff's Counsel:

David E. Cowling

Jones, Day, Reavis &

Pogue

Dallas

Issue: Whether acquisition debt incurred by an acquiring corporation may be pushed down to the acquired corporation to reduce taxable capital.

Status: Settled.

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***North Star Steel Texas, Inc. v. Sharp, et al.*** Cause #98-12019

AG Case #98-1071152

Franchise Tax; Refund Filed: 10/23/98 Period: 1992-1995 Amount: \$725,830	Asst. AAG Assigned:  Plaintiff's Counsel:	Christine Monzingo  James F. Martens Gilbert J. Bernal, Jr. Stahl, Martens & Bernal Austin
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Issue: Whether Comptroller properly interpreted the throw-back rule for purposes of apportioning gross receipts.

Status: Discovery in progress. Non-jury trial set 08/25/03.

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***Palais Royal, Inc. and 3 Beall Brothers 3, Inc. v. Sharp, et al.*** Cause #96-03719

#03-01-00224-CV

AG Case #96-495867

Franchise Tax; Protest Filed: 04/01/96 Period: 1992-1993 (3 Beall) 1992-1995 (Palais) Amount: \$700,974	Asst. AAG Assigned:  Plaintiff's Counsel:	Christine Monzingo  Mark W. Eidman Ray Langenberg Scott, Douglass & McConnico Austin
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Issue: Whether the 1991 Franchise Tax Statute is unconstitutionally retroactive as applied to the 1992 report year of a fiscal year taxpayer. Whether the officer-director add-back statute is unconstitutional under equal taxation provisions. Whether the implementation of the earned surplus tax component violated due process.

Status: Trial court granted Plaintiffs' motion for summary judgment on the due process, retroactivity, and equal tax issues, and granted the State's Motion for Summary Judgment on the officer-director compensation add-back issue. Judgment signed 01/29/01. Appellants' brief filed 06/22/01. Appellees' brief filed 10/05/01. Oral argument held 10/17/01. Appellees' post-submission brief filed 10/29/01. Appellants' post-submission brief filed. Appellees' post-submission letter brief filed. Third Court of Appeals reversed and rendered judgment for Comptroller on all issues. Petition for Review filed 08/13/02. Respondents' brief filed 09/12/02. Petition denied. Motion for Rehearing filed 11/14/02; denied 12/19/02.

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***Pfizer, Inc. v. Rylander, et al.*** Cause #GN001781  
AG Case #001323641

Franchise Tax; Protest Filed: 06/20/00 Period: 1994-1996 Amount: \$309,078	Asst. AAG Assigned:  Plaintiff's Counsel:	Christine Monzingo  Mark W. Eidman Scott, Douglass & McConnico Austin
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Issue: Whether franchise tax is due on gain from sale of an operating division that was capitalized, incorporated and sold. Whether receipts from sales of drugs shipped from outside Texas should be included in Texas' earned surplus gross receipts. Whether the throw-back rule applies to Michigan sales. Whether tax on income earned before the effective date of the earned surplus component is unconstitutional. Whether all penalty and interest should be waived.

Status: Cross-motions for summary judgment denied 02/06/02. Non-jury trial set 06/09/03.

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***Randall's Food & Drugs, Inc. v. Rylander, et al.*** Cause #GN003174  
AG Case #001375450

Franchise Tax; Protest & Refund Filed: 10/31/00 Period: 1994-1997 Amount: \$4,006,942.39	Asst. AAG Assigned:  Plaintiff's Counsel:	Christine Monzingo  Jasper G. Taylor, III Jay M. Chadha Fulbright & Jaworski Houston
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Issue: Whether the Comptroller's Rule 3.555(g)(3), which denies a carry forward of business losses of a merged corporation by the surviving corporation, is an unconstitutional retroactive law or a violation of Texas and Delaware statutes on mergers. Whether compensation of officers and directors should have been added back to Plaintiff's income and whether doing so violates constitutional equal taxation requirements. Whether some receipts were incorrectly treated as Texas receipts. Whether surplus calculation by the Comptroller should have excluded increases from push-down accounting. Whether failure to waive penalties and interest was arbitrary. Whether the audit has calculation errors. Whether the Comptroller's determination and decision violate equal protection, due process, and other constitutional provisions.

Status: Discovery in progress.

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***Reliant Energy Corp. (formerly Houston Industries, Inc.) v. Rylander, et al.***

Cause #GN103935

AG Case #011532348

Franchise Tax; Refund

Filed: 11/28/01

Period: 1998

Amount: \$2,581,013.52

Asst. AAG Assigned:

Plaintiff's Counsel:

Jim Cloudt

L.G. Skip Smith

David H. Gilliland

Clark, Thomas & Winters

Austin

Issue: Whether plaintiff may use business loss carry-forward from non-surviving corporation in merger to reduce its franchise tax.

Status: Answer filed.

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***Reliant Energy Gas Transmission Co., fka Noram Gas Transmission Co. v. Rylander, et al.*** Cause #99-08127

AG Case #99-1187675

Franchise Tax; Refund

Filed: 07/15/99

Period: 1996

Amount: \$163,758.10

Asst. AAG Assigned:

Plaintiff's Counsel:

Jim Cloudt

L.G. Skip Smith

David H. Gilliland

Clark, Thomas & Winters

Austin

Issue: Whether a business loss carry-forward of a merged corporation may be used to reduce the surviving corporation's franchise tax.

Status: Discovery in progress. Trial to be scheduled the week of 04/21/03.

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***Saudi Refining, Inc. v. Rylander, et al.*** Cause #99-04227

AG Case #99-1155755

Franchise Tax; Refund &  
Protest

Filed: 04/09/99

Period: 1994-1995

Amount: \$502,834.84 &  
\$190,000.58

Asst. AAG Assigned:

Plaintiff's Counsel:

Christopher Jackson

Ira A. Lipstet  
Therese L. Surprenant  
Jenkins & Gilchrist  
Austin

Issue: Whether Plaintiff may take franchise tax credit as a joint venture partner for equipment sales taxes paid by the joint venture.

Status: Motion to retain granted. Order waiving mediation granted 05/29/01. Discovery in progress. Motion for Summary Judgment hearing held 12/16/02. Judgment granted in favor of Comptroller 01/23/03.

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***Sergeant Enterprises, Inc. v. Sharp, et al.*** Cause #96-15475

#03-03-00047-CV

AG Case #97-652613

Franchise Tax; Refund

Filed: 12/31/96

Period: 1995

Amount: \$42,968

Asst. AAG Assigned:

Plaintiff's Counsel:

Christine Monzingo

Mark W. Eidman  
Ray Langenberg  
Scott, Douglass &  
McConnico  
Austin

Issue: Whether a business loss carry-forward can be transferred to another corporation by way of merger and whether Rule 3.555 prohibiting such a transfer is applicable to audit periods before the effective date of the rule.

Status: Cross-motions for summary judgment held 12/11/02. Judgment for the Comptroller signed 12/19/02. Judgment appealed 01/17/03.

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***Southern Union Co. v. Rylander, et al.*** Cause #GN003692

AG Case #011399409

Franchise Tax; Refund

Filed: 12/29/00

Period: 1994

Amount: \$549,983

Asst. AAG Assigned:

Christine Monzingo

Plaintiff's Counsel:

Mark W. Eidman  
Ray Langenberg  
Eric Hagenswold  
Scott, Douglass &  
McConnico  
Austin

Issue: Whether Plaintiff was required to use historical cost as the basis of assets of an acquired corporation. Whether post-retirement benefit obligations are debt. Whether disallowing deduction of post-retirement benefits violates equal protection. Whether Plaintiff may use another method to account for depreciation.

Status: Partial settlement.

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***Southwestern Bell Telephone Co. v. Rylander, et al.*** Cause #GN204559

AG Case #031730666

Franchise Tax; Protest &  
Refund

Filed: 12/20/02

Period: 1996-1999

Amount: \$34,880,360.66

Asst. AAG Assigned:

Christine Monzingo

Plaintiff's Counsel:

Mark W. Eidman  
Ray Langenberg  
Scott, Douglass &  
McConnico  
Austin

Issue: Whether interstate access revenues are Texas receipts for franchise tax purposes. Whether treating the revenues as Texas receipts violates the Comptroller's Rule on interstate calls and the due process, equal protection and commerce clauses of the Constitution. Whether other interstate call revenues in border areas are not Texas receipts.

Status: Answer filed.

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***Specialty Retailers, Inc. v. Rylander, et al.*** Cause #GN100415

AG Case #011410529

Franchise Tax; Refund	Asst. AAG Assigned:	Christine Monzingo
Filed: 02/08/01		
Period: 1992-1996	Plaintiff's Counsel:	Mark W. Eidman
Amount: \$34,167		Ray Langenberg
		Scott, Douglass &
		McConnico
		Austin

Issue: Whether Plaintiff is entitled to a refund for a business loss carryforward.

Status: Answer filed.

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***Specialty Retailers, Inc. v. Rylander, et al.*** Cause #GN102549

AG Case #011479979

Franchise Tax; Refund	Asst. AAG Assigned:	Scott Simmons
Filed: 08/13/01		
Period: 1997	Plaintiff's Counsel:	Mark W. Eidman
Amount: \$99,182		Ray Langenberg
		Scott, Douglass &
		McConnico
		Austin

Issue: Whether the officer add-back provision violates equal and uniform taxation, equal protection, or due process.

Status: Answer filed.

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***Specialty Retailers, Inc. and 3 Beall Brothers 3, Inc. v. Sharp, et al.*** Cause #98-01348

AG Case #98-893255

Franchise Tax; Refund	Asst. AAG Assigned:	Christine Monzingo
Filed: 02/06/98		
Period: 1993	Plaintiff's Counsel:	Mark W. Eidman
Amount: \$250,488		Ray Langenberg
		Scott, Douglass &
		McConnico
		Austin

Issue: Whether the 1993 franchise tax on earned surplus is a retroactive tax as applied to fiscal year taxpayers.

Status: Bankruptcy stay in effect. See *General Dynamics v. Sharp* and *3 Beall Brothers 3, Inc. v. Comptroller, et al.*

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***Texaco Refining & Marketing (East), Inc. v. Rylander, et al.*** Cause #99-14555  
AG Case #99-1249228

Franchise Tax; Refund	Asst. AAG Assigned:	Christopher Jackson
Filed: 12/15/99		
Period: 1994	Plaintiff's Counsel:	David H. Gilliland
Amount: \$1,028,616.15		L.G. (Skip) Smith
		Clark, Thomas & Winters
		Austin

Issue: Whether Plaintiff is entitled to a franchise tax credit for sales tax on manufacturing equipment purchased by a joint venture that it co-owned.

Status: Answer filed. On hold pending outcome of *Saudi Refining, Inc. v. Rylander, et al.*

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***Texas Instruments, Inc. v. Rylander, et al.*** Cause #GN102799  
AG Case #011496635

Franchise Tax; Protest & Declaratory Judgment	Asst. AAG Assigned:	Christine Monzingo
Filed: 08/27/01		
Period: 1987-1990	Plaintiff's Counsel:	David Cowling
Amount: \$6,683,563.48		Todd Wallace
		Gregory E. Perry
		Jones, Day, Reavis &
		Pogue
		Dallas

Issue: Whether delivering goods to plaintiff's customers in plaintiff's "bond rooms" for eventual shipment out-of-state were sales that generated Texas receipts. Whether Plaintiff's long-term contracts were properly characterized as service contracts. Whether treatment of Plaintiff's cost-plus contracts as service contracts violated equal protection or equal and uniform taxation. Whether all interest should have been waived. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Discovery in progress. Non-jury trial set 12/08/03.

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***U.S. Home Corp. v. Rylander, et al.*** Cause #GN003082

AG Case #001372424

Franchise Tax; Refund

Filed: 10/20/00

Period: 1992 and 1993

Amount: \$46,607.88

Asst. AAG Assigned:

Plaintiff's Counsel:

Christopher Jackson

D. Steven Henry  
Gregory A. Harwell  
Robert M. Reed, Jr.  
Gardere & Wynne  
Dallas

Issue: Whether Plaintiff is entitled to write down or write off the value of its investment in bankrupt subsidiaries.

Status: Answer filed.

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***Westcott Communications, Inc., Law Enforcement Television Network, Inc.,  
Westcott ECI, Inc. and TI-IN Acquisition Corp. v. Sharp, et al.*** Cause #98-14049

#03-02-00351-CV

AG Case #99-1093113

Franchise Tax; Protest

Filed: 12/17/98

Period: 01/01/92-  
12/31/94

Amount: \$1,182,242.67

Asst. AAG Assigned:

Plaintiff's Counsel:

Blake Hawthorne

Mark W. Eidman  
Ray Langenberg  
Steve Wingard  
Scott, Douglass &  
McConnico  
Austin

Issue: Whether apportionment of satellite service gross receipts to Texas violates the commerce, due process or equal protection clauses of the Constitution or the Tax Code and Comptroller rules apportioning receipts to the state where a service is performed. Alternatively, whether interest should be waived.

Status: Defendants' Cross Motion for Summary Judgment filed 02/27/02. Plaintiffs' Motion for Summary Judgment set 03/21/02. Court granted Defendants' Motion for Summary Judgment 05/20/02. Clerk's Record filed 07/11/02. Appellant's brief filed 08/23/02. Appellee's brief filed 09/23/02. Appellant's reply brief filed 11/08/02. Submitted on oral argument 11/13/02. Appellee letter brief filed 11/21/02; post-submission brief filed 12/09/02.

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# Sales Tax

***AccuTel of Texas, L.P. v. Rylander, et al.*** Cause #GN300091

AG Case #031735236

Sales Tax; Refund	Asst. AAG Assigned:	Natalie Foerster
Filed: 01/10/03		
Period: 06/01/97- 11/30/00	Plaintiff's Counsel:	Christopher Malish Foster & Malish Austin
Amount: \$45,658.15		

Issue: Whether Plaintiff should have been assessed interest and penalty.

Status: Answer filed.

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***Advanta Business Services Corp. v. Rylander, et al.*** Cause #GN103463

AG Case #011514544

Sales Tax; Protest	Asst. AAG Assigned:	Blake Hawthorne
Filed: 10/19/01		
Period: 11/01/92- 12/31/97	Plaintiff's Counsel:	W. Stephen Benesh Deanna E. King Bracewell & Patterson Austin
Amount: \$929,964.11		

Issue: Whether plaintiff's leases were financing leases and not taxable operating leases under Comptroller Rule 3.294(i). Whether the Comptroller's sample was flawed. Alternatively, whether penalty and interest should have been waived.

Status: Discovery in progress.

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***Alexopolous, Dimitrios P. v. Rylander, et al.*** Cause #99-08096

AG Case #99-1187865

Sales Tax; Declaratory Judgment	Asst. AAG Assigned:	Blake Hawthorne
Filed: 07/14/99		
Period: 07/01/88- 03/31/95	Plaintiff's Counsel:	Stephen W. Sather Naman, Howell, Smith & Lee Austin
Amount: \$134,455.65		

Issue: Issue is whether the Comptroller incorrectly calculated Plaintiff's gross taxable sales by using too low a factor for Plaintiff's personal consumption, improperly comparing Plaintiff's operations to other fast-food outlets, failing to consider that higher subsequent sales were due to population increases, determining that Plaintiff kept inadequate records when Plaintiff had lost them in a fire, and failing to consider the results of an IRS audit. Whether penalty and interest should be waived.

Status: Bankruptcy stay in effect. Discovery in progress. Trial set 10/15/01. Plaintiff filed bankruptcy petition 09/24/01. Bankruptcy/Collection Division has requested bankruptcy court to abstain. Case to be tried in Bankruptcy Court 11/08/02.

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***Alpine Industries, Inc. v. Sharp, et al.*** Cause #98-12998

AG Case #98-1080526

Sales Tax; Protest	Asst. AAG Assigned:	Blake Hawthorne
Filed: 11/20/98		
Period: 1994-1998	Plaintiff's Counsel:	Stephen D. Good
Amount: \$31,128.62		Gregory A. Harwell
		Gardere & Wynne
		Dallas

Issue: Whether Alpine may be regarded as a seller for direct sales made in Texas by independent dealers and whether holding Alpine liable for sales tax violates the commerce clause, due process or equal protection.

Status: Discovery in progress. Trial set 05/19/03.

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***America Online, Inc. v. Rylander, et al.*** Cause #GN203015

AG Case #021663323

Sales Tax; Protest & Declaratory Judgment	Asst. AAG Assigned:	Christine Monzingo
Filed: 08/26/02		
Period: 01/01/90- 03/31/97	Plaintiff's Counsel:	Mark W. Eidman
Amount: \$15,271,936.64		Ray Langenberg
		Scott, Douglass & McConnico

Issue: Whether Plaintiff was a retailer engaged in business and with a physical presence in Texas during the audit period. Whether tax on Plaintiff violates Tex. Tax Code §151.307(c) and the Texas and United States Constitutions. Alternatively, whether penalty and interest should be waived.

Status: Discovery in progress.

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**American Oil Change Corp. v. Rylander, et al.** Cause #99-06374

AG Case #99-1175084

Sales Tax; Protest	Asst. AAG Assigned:	Christopher Jackson
Filed: 06/03/99		
Period: 1992-1993	Plaintiff's Counsel:	Bill Johnson
Amount: \$467,142.31		Baker Botts
		Houston

Issue: Whether materials are provided by Plaintiff to its customers in the course of its motor vehicle repairs under lump sum contracts, requiring Plaintiff to pay tax on the cost of materials. If Plaintiff's contracts are lump sum, whether Plaintiff is entitled to credit for tax collected from its customers and remitted to the Comptroller. Whether software services are taxable when the seller of the services contributes rather than sells the software itself. Whether software services are exempt under §151.346 as sales between affiliated entities of previously exempt services. Whether interest should have been waived. Whether any of the above issues result in a denial of equal protection, equal and uniform taxation or due process under the federal and state constitutions.

Status: Discovery in progress. Mediation held 10/15/02. Trial scheduled 06/30/03.

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**Aramis Services, Inc. v. Sharp, et al.** Cause #98-03527

AG Case #98-930349

Sales Tax; Protest	Asst. AAG Assigned:	Christopher Jackson
Filed: 04/03/98		
Period: 04/01/90-03/31/94	Plaintiff's Counsel:	David E. Cowling
Amount: \$291,196		Jones, Day, Reavis & Pogue
		Dallas

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed.

Status: Answer filed.

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***Aramis Services, Inc. v. Rylander, et al.*** Cause #0000384

AG Case #001273051

Sales Tax; Protest

Filed: 02/11/00

Period: 04/01/94-

12/31/97

Amount: \$281,676.36

Asst. AAG Assigned:

Plaintiff's Counsel:

Christopher Jackson

David E. Cowling  
Robert Lochridge  
Jones, Day, Reavis &  
Pogue  
Dallas

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed. Whether Rule 3.346(b)(3)(A) is invalid and whether the Comptroller has authority to change its long-standing policy. Alternatively, whether penalty should be waived.

Status: Answer filed.

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***Baldry, Ann d/b/a Annie's Housekeeping Services v. Sharp, et al.*** Cause #95-

02389

AG Case #95-234990

Sales Tax; Declaratory

Judgment

Filed: 2/27/95

Period: 04/01/88-

06/30/92

Amount: \$63,588

Asst. AAG Assigned:

Plaintiff's Counsel:

Steve Rodriguez

Alvin L. Thomas, II  
Littler, Mendleson &  
Fastiff  
Houston

Issue: Whether sales tax is due on maid services provided by maids placed by Plaintiff's service but acting as independent contractors. Also, whether Plaintiff relied, to her detriment, on advice from the Comptroller's Office.

Status: Discovery in progress.

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***Bandas, David v. Rylander, et al.*** Cause #GN201236

AG Case #021598024

Sales Tax; Refund

Filed: 04/16/02

Period: 05/01/96-

04/30/00

Amount: \$24,178.86

Asst. AAG Assigned:

Plaintiff's Counsel:

Scott Simmons

Tom Tourtellotte  
Hance Scarborough  
Wright Ginsberg &  
Brusilow  
Austin

Issue: Whether plaintiff is entitled to a sale for resale exemption on data processing services used in preparing tax returns.

Status: Scheduling order being negotiated. Trial set 09/08/03.

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***Bedrock General Contractors v. Rylander, et al.*** Cause #GN101432

AG Case #011442035

Sales Tax; Declaratory Judgment	Asst. AAG Assigned:	Christopher Jackson
Filed: 05/10/01	Plaintiff's Counsel:	Timothy M. Trickey
Period: 06/01/92-01/31/96		The Trickey Law Firm
Amount: \$64,552.33		Austin

Issue: Whether successor liability was retroactively imposed. Whether successor liability may be imposed when little or no cash is exchanged in the purchase of the predecessor.

Status: Answer filed.

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***Bell Bottom Foundation Co. v. Rylander, et al.*** Cause #99-01092

AG Case #99-1112186

Sales Tax; Protest	Asst. AAG Assigned:	Scott Simmons
Filed: 01/29/99	Plaintiff's Counsel:	Timothy M. Trickey
Period: 01/01/91-12/31/94		The Trickey Law Firm
Amount: \$81,571.73		Austin

Issue: Whether taxpayer's sub-contract was a separated contract since the general contractor's construction contract was separated.

Status: Answer filed. Change of counsel filed.

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***Bell Helicopter Textron, Inc. v. Rylander, et al.*** Cause #GN200525

AG Case #021567755

Sales Tax; Refund & Declaratory Judgment	Asst. AAG Assigned:	Jim Cloudt
Filed: 02/15/02	Plaintiff's Counsel:	Gilbert J. Bernal, Jr.
Period: 01/01/90-06/30/93		Kirk R. Lyda
07/01/93-06/30/97		Stahl, Martens & Bernal
Amount: \$7,280,079		Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*. Plaintiff also seeks attorneys' fees and a declaration that the Comptroller disregarded controlling federal law, violated equal protection or imposed tax on the U.S. government.

Status: Answer filed.

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***Big Tex Air Conditioning, Inc. v. Bullock, et al.*** Cause #486,321  
AG Case #90-322672

Sales Tax; Protest Filed: 6/26/90 Period: 04/01/85- 07/31/88 Amount: \$181,397	Asst. AAG Assigned:  Plaintiff's Counsel:	Steve Rodriguez  John W. Berkel Houston
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Issue: Detrimental reliance and various allegations of unconstitutional enforcement; statute of limitations.

Status: Some discovery done. Inactive.

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***Boeing North America, Inc. v. Rylander, et al.*** Cause #GN203340  
AG Case #021676804

Sales Tax; Refund Filed: 09/13/02 Period: 01/01/95- 12/31/96 Amount: \$343,487	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  David H. Gilliland Clark, Thomas & Winters Austin
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Issue: Plaintiff claims a sale for resale exemption on items resold to the federal government. Plaintiff also claims a denial of equal protection and an exemption under §151.3111.

Status: Answer filed.

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***Border Steel Rolling Mills, Inc. and Border Steel, Inc., as Successor in Interest to Border Steel Rollings Mills, Inc. v. Rylander, et al.*** Cause #GN002671

AG Case #001352137

Sales Tax; Refund	Asst. AAG Assigned:	Scott Simmons
Filed: 09/08/00		
Period: 06/01/91-08/31/95	Plaintiff's Counsel:	Ray Bonilla
Amount: \$76,281.34		Ray, Wood, Fine & Bonilla
		Austin

Issue: Whether Plaintiff's rail-mounted cranes, related repair parts and labor are exempt from sales and use tax as rolling stock. Whether the Comptroller fully implemented an administrative agreement on taxation of other equipment and parts qualifying for the manufacturing exemption.

Status: Discovery in progress.

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***Brighton Builders, Inc. v. Sharp, et al.*** Cause #97-11830

AG Case #97-837489

Sales Tax; Protest	Asst. AAG Assigned:	Christopher Jackson
Filed: 10/15/97		
Period: 10/01/92-09/30/95	Plaintiff's Counsel:	Ray Langenberg
Amount: \$195,368		Scott Douglass & McConnico
		Austin

Issue: Whether certain real property services, such as landscaping and construction site cleanup, are taxable.

Status: Discovery near completion.

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***Broadcast Satellite International, Inc. v. Rylander, et al.*** Cause #GN002895

AG Case #001365014

Sales Tax; Declaratory Judgment	Asst. AAG Assigned:	Christopher Jackson
Filed: 10/02/00		
Period: 01/01/91-12/31/97	Plaintiff's Counsel:	William E. Bailey
Amount: \$250,840.25		Dallas

Issue: Whether Plaintiff's broadcast services are non-taxable information services under §151.0038(a). Whether Plaintiff's services are not taxable telecommunications services under §151.0103(l) or data processing under §151.0035. Whether the sale or use of Plaintiff's services occurred out-of-state. Whether Plaintiff's experts demonstrated that Plaintiff is exempt under federal law. Plaintiff also asserts limitations as to part of the liability and seeks declaratory and injunctive relief.

Status: Temporary injunction hearing held 11/29/00. Temporary injunction denied 02/08/01.

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***Broadcast Satellite International, Inc. v. Rylander, et al.*** Cause #GN103568  
AG Case #011518479

Sales Tax; Declaratory Judgment, Refund & Protest Filed: 10/26/01 Period: 01/01/91- 12/31/97 Amount: \$200,000	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  William E. Bailey Dallas
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Issue: Whether Plaintiff's broadcast services are non-taxable information services under §151.0038(a). Whether Plaintiff's services are not taxable telecommunications services under §151.0103(l) or data processing under §151.0035. Whether the sale or use of Plaintiff's services occurred out-of-state. Whether Plaintiff's experts demonstrated that Plaintiff is exempt under federal law. Plaintiff asserts limitations as to part of the liability and also seeks attorneys' fees.

Status: Answer filed.

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***Burgess, Connie, Individually and on Behalf of all Similarly Situated Consumers v. Gallery Model Homes, Inc., dba Gallery Furniture and all Similarly Situated Retailers*** Cause #01-01-01014-CV  
AG Case #021641543

Sales Tax; Refund &  
Class Action  
Filed: 06/99  
Period:  
Amount: \$

Asst. AAG Assigned:

Gene Storie

Plaintiff's Counsel:

Ronald J. Kormanik  
Michael D. Sydow  
Sydow, Kormanik,  
Carrigan & Eckerson  
Houston

Donald Self  
The Law Offices of Don  
Self  
Houston

George Y. Nino  
The Nino Law Firm  
Houston

Issue: Whether Plaintiffs may sue their vendors directly in a class action suit for alleged overcharges of sales tax without first getting a determination on the merits from the Comptroller.

Status: Comptroller's amicus brief filed. Oral argument held 11/04/02. Judgment affirmed.

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***C & T Stone Co. v. Rylander, et al.*** Cause #GN002428  
AG Case #001344233

Sales Tax; Protest  
Filed: 08/18/00  
Period: 04/01/94-  
12/31/97  
Amount: \$207,454.40

Asst. AAG Assigned:

Steve Rodriguez

Plaintiff's Counsel:

William T. Peckham  
Austin

Issue: Whether Plaintiff owes sales tax on its sales of limestone to third parties under §151.311(a). Whether Plaintiff detrimentally relied on advice from the Comptroller's Office. Whether exemption certificates covered some sales that were assessed tax. Whether Plaintiff is entitled to the manufacturing exemption under §151.318(g). Whether penalty and interest should be waived.

Status: Trial set 11/17/03..

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***Cafeteria Operators, L.P. v. Rylander, et al.*** Cause #99-14363

#03-01-00447-CV

AG Case #99-1243411

Sales Tax; Refund

Filed: 12/09/99

Period: 04/01/91-  
10/31/94

Amount: \$117,868.69

Asst. AAG Assigned:

Plaintiff's Counsel:

Blake Hawthorne

Mark W. Eidman  
Ray Langenberg  
Scott, Douglass &  
McConnico  
Austin

Issue: Whether Plaintiff's use of gas and electricity is exempt as processing. Whether Plaintiff's food products are prepared or stored for immediate consumption, thus eliminating the exemption. Whether taxation of Plaintiff's purchases of gas and electricity violates equal protection and lacks a rational basis.

Status: Summary judgment granted for defendants 07/05/01. Notice of appeal and request to clerk to prepare clerk's record filed 08/02/01. Docketing statement filed with Court of Appeals 08/15/01. Clerk's Record filed 09/13/01. Appellants' brief filed 10/10/01. Appellants' request for oral argument overruled on 11/27/01. Case set for submission on the briefs only on 01/14/02. Appellees' brief filed 12/18/01. Appellants' motion for oral argument filed 12/27/01; denied 01/09/02. Appellants' reply brief filed 01/11/02. Court of Appeals affirmed Summary Judgment for defendants 07/26/02; withdrawn 10/10/02. Motion for Rehearing filed 08/09/02; granted 10/10/02. Petition for Review filed in Supreme Court 11/22/02. Response to Petition for Review filed 02/03/03.

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***Central Power & Light Co. v. Sharp, et al.*** Cause #96-11455

AG Case #96-602037

Sales Tax; Refund

Filed: 09/20/96

Period: 07/01/86-  
12/31/89

Amount: \$32,788

Asst. AAG Assigned:

Plaintiff's Counsel:

Jana Kinkade

L.G. Skip Smith  
Clark, Thomas & Winters  
Austin

Issue: Whether utility pole replacement services are non-taxable maintenance or taxable repair labor.

Status: Discovery in progress.

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***Cervantes, Elsa v. Rylander*** Cause #GN202413

AG Case #021649827

Sales Tax; Declaratory Judgment	Asst. AAG Assigned:	Christopher Jackson
Filed: 07/25/02	Plaintiff's Counsel:	Mark N. Osborn
Period: 2002		Andrew S. Miller
Amount: \$		Kemp Smith, P.C. El Paso

Issue: Plaintiff contests the suspension of its Texas Customs Broker License and disagrees with the Comptroller's policy on goods being exported.

Status: Discovery in progress.

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***Chapal Zenray, Inc. v. Rylander, et al.*** Cause #GN204506

AG Case #031729197

Sales Tax; Protest & Refund	Asst. AAG Assigned:	Jana Kinkade
Filed: 12/16/02	Plaintiff's Counsel:	Mark W. Eidman
Period: 01/01/94- 12/31/97		Ray Langenberg
Amount: \$210,943.91		Curtis J. Osterloh
		Scott, Douglass & McConnico
		Austin

Issue: Whether items such as boxes, foam pads and twist ties are not subject to tax pursuant to Tex. Tax Code §151.011 (f)(2) and Rule 3.346 (c)(1)(c) when purchased by a person who uses the items to secure jewelry for shipment out-of-state.

Status: Answer filed.

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***Church & Dwight Co., Inc. v. Rylander, et al.*** Cause #GN000525

AG Case #001258201

Sales Tax; Refund	Asst. AAG Assigned:	Blake Hawthorne
Filed: 01/12/00	Plaintiff's Counsel:	Robert C. Alden
Period: 10/01/90- 12/31/93		Phillip L. Sampson, Jr.
Amount: \$64,868.50		Bracewell & Patterson
		Austin



Issue: Whether Plaintiff owes use tax on promotional materials shipped from out-of-state. Whether the Comptroller's imposition of use tax is invalid because Plaintiff made no use of the materials in Texas. Whether Rule 3.346(b)(3)(A) is invalid. Whether the tax violates the Commerce and Due Process Clauses of the United States Constitution.

Status: Answer filed.

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***Clinique Services, Inc. v. Sharp, et al.*** Cause #98-03533

AG Case #98-930330

Sales Tax; Protest Filed: 04/03/98 Period: 04/01/90- 03/31/94 Amount: \$519,192	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  David E. Cowling Jones, Day, Reavis & Pogue Dallas
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Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed.

Status: Answer filed.

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***Clinique Services, Inc. v. Rylander, et al.*** Cause #GN000376

AG Case #001273069

Sales Tax; Protest Filed: 02/11/00 Period: 04/01/94- 03/31/98 Amount: \$650,361.82	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  David E. Cowling Robert Lochridge Jones, Day, Reavis & Pogue Dallas
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Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed. Whether Rule 3.346(b)(3)(A) is invalid and whether the Comptroller has authority to change its long-standing policy. Alternatively, whether penalty should be waived.

Status: Answer filed.

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**Coastal Refining & Marketing, Inc. v. Sharp, et al.** Cause #98-03540

AG Case #98-930321

Sales Tax; Protest

Filed: 04/03/98

Period: 01/01/89-

06/30/89

07/01/89-12/31/91

Amount: \$1,635,965

Asst. AAG Assigned:

Blake Hawthorne

Plaintiff's Counsel:

Jasper G. Taylor, III

Fulbright & Jaworski

Houston

Joe W. Cox

Coastal States

Management Corp.

Houston

Issue: Whether certain work performed by Plaintiff is new construction under a lump sum contract and thus not taxable.

Status: Discovery in progress. Plaintiff has submitted settlement offer.

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**Colt, Mach V., Trustee of the Harry T. Lloyd Charitable Trust, successor in interest to House of Lloyd, Inc. v. Rylander, et al.** Cause #GN100740

AG Case #011423951

Sales Tax; Refund &

Declaratory Judgment

Filed: 03/09/01

Period: 01/01/95-

03/31/99

Amount: \$645,193.40

Asst. AAG Assigned:

Steve Rodriguez

Plaintiff's Counsel:

Marilyn A. Wethekam

Horwood Marcus & Berk

Chartered

Chicago, Illinois

David E. Cowling

Charolette Noel

Gregory E. Perry

Jones, Day, Reavis &

Pogue

Dallas

Issue: Whether Plaintiff is entitled to refund of sales tax on "hostess free goods," because Plaintiff paid use tax on the goods. Whether sales tax collected from its hostesses on hostess free goods can be refunded to them by a credit for merchandise. Whether Rule 3.325(b)(2) is invalid. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Answer filed.

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**Cruz, Eduardo v. Rylander** Cause #GN203600

AG Case #021684410

Sales Tax; Declaratory Judgment	Asst. AAG Assigned:	Christopher Jackson
Filed: 10/03/02	Plaintiff's Counsel:	Mark N. Osborn
Period: 2002		Andrew S. Miller
Amount: \$		Kemp Smith, P.C. El Paso

Issue: Plaintiff contests the suspension of its Texas Custom Broker License and disagrees with the Comptroller's policy on goods being exported. Plaintiff also claims that the rules and statutes relied on by the Comptroller to enforce Plaintiff's suspension are unconstitutional. Plaintiff seeks a declaratory judgment and attorneys' fees along with the appeal of the administrative suspension.

Status: Settlement pending.

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**Dillard's, Inc., aka Dillard Department Stores, Inc., and Dillard Texas Operating Limited Partnership v. Rylander, et al.** Cause #GN203937

AG Case #021703947

Sales Tax; Protest & Refund	Asst. AAG Assigned:	Scott Simmons
Filed: 10/30/02	Plaintiff's Counsel:	Mark W. Eidman
Period: 07/01/93- 01/31/96		Ray Langenberg
02/01/96-11/30/96		Doug Sigel
Amount: \$1,100,000+		Scott, Douglass & McConnico Austin

Issue: Whether Plaintiff's sewing machines and other property used to alter clothing qualify for the manufacturing exemption. Whether Plaintiff is entitled to a refund of tax on packaging supplies, non-taxable services, and industrial solid waste disposal. Whether the Comptroller improperly applied a franchise tax credit to the assessed amount.

Status: Answer filed.

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***E.de la Garza, Inc. v. Rylander, et al.*** Cause #GN003589

AG Case #0011395316

Sales Tax; Protest

Asst. AAG Assigned:

Scott Simmons

Filed: 12/15/00

Period: 01/01/93-

Plaintiff's Counsel:

Rudy de la Garza

12/31/96

Brownsville

Amount: \$83,138.14

Issue: Whether sales of grocery bags and sacks are not taxable when sold to grocery stores who have provided a blanket sale for resale certificate. Plaintiff also complains of audit calculation errors.

Status: Discovery in progress.

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***EFW, Inc. v. Rylander, et al.*** Cause #GN200906

AG Case #021579578

Sales Tax; Refund &

Asst. AAG Assigned:

Jana Kinkade

Declaratory Judgment

Filed: 03/19/02

Plaintiff's Counsel:

Mark W. Eidman

Period: 04/94-03/31/98

Ray Langenberg

Amount: \$123,440.25

Doug Sigel

Curtis J. Osterloh

Scott, Douglass &

McConnico

Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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***ELC Beauty LLC, as Successor-in-Interest to Aramis Services, Inc. v. Rylander, et al.*** Cause #GN203514

AG Case #

Sales Tax; Protest &  
Declaratory Judgment  
Filed: 09/26/02  
Period: 01/01/98-  
12/31/00  
Amount: \$284,508.69

Asst. AAG Assigned:  
  
Plaintiff's Counsel:

Christopher Jackson  
  
David Cowling  
Robert Lochridge  
Gregory E. Perry  
Jones, Day, Reavis &  
Pogue  
Dallas

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed. Whether Rule 3.346(b)(3)(A) is invalid and whether the Comptroller has authority to change its long-standing policy. Alternatively, whether penalty should be waived.

Status: Answer filed.

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***El Paso Natural Gas Co. v. Rylander, et al.*** Cause #GN103408  
AG Case #011509676

Sales Tax; Refund  
Filed: 10/16/01  
Period: 01/01/96-  
01/31/96  
Amount: \$288,750

Asst. AAG Assigned:  
  
Plaintiff's Counsel:

Christopher Jackson  
  
Ron Patterson  
Kliwer, Breen, Garatoni,  
Patterson & Malone, Inc.  
San Antonio

Issue: Whether plaintiff, a common carrier pipeline owner, owes use tax on an aircraft used in its business.

Status: Answer filed. Outcome pending *Tennessee Gas Pipeline Co. v. Rylander, et al.*

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***El Paso Natural Gas Co. v. Rylander, et al.*** Cause #GN103409  
AG Case #011509650

Sales Tax; Refund  
Filed: 10/16/01  
Period: 10/01/93-  
07/31/96  
Amount: \$16,290.85

Asst. AAG Assigned:  
  
Plaintiff's Counsel:

Christopher Jackson  
  
Ron Patterson  
Kliwer, Breen, Garatoni,  
Patterson & Malone, Inc.  
San Antonio

Issue: Plaintiff contends that because it operates a common-carrier pipeline and is a certificated or licensed carrier of property it may avoid sales tax on repair, remodeling, and maintenance services purchased in connection with the maintenance and repair of aircraft Plaintiff owns and uses in operating its common-carrier pipeline.

Status: Answer filed. Outcome pending *Tennessee Gas Pipeline Co. v. Rylander, et al.*

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***Estee Lauder Services, Inc. v. Sharp, et al.*** Cause #98-03525

AG Case #98-930358

Sales Tax; Protest	Asst. AAG Assigned:	Christopher Jackson
Filed: 04/03/98		
Period: 01/01/89-09/30/92	Plaintiff's Counsel:	David E. Cowling
Amount: \$472,225		Jones, Day, Reavis & Pogue
		Dallas

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed.

Status: Settlement offer pending.

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***Estee Lauder Services, Inc. v. Sharp, et al.*** Cause #98-03524

AG Case #98-930367

Sales Tax; Protest	Asst. AAG Assigned:	Christopher Jackson
Filed: 04/03/98		
Period: 10/01/92-03/31/96	Plaintiff's Counsel:	David E. Cowling
Amount: \$748,773		Jones, Day, Reavis & Pogue
		Dallas

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed.

Status: Settlement offer pending.

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***Estee Lauder Services, Inc. v. Rylander, et al.*** Cause #GN101312

AG Case #011439874

Sales Tax; Protest Filed: 05/01/01 Period: 04/01/96- 06/30/99 Amount: \$614,814.78	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  David E. Cowling Robert Lochridge Jones, Day, Reavis & Pogue Dallas
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Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed.

Status: Settlement offer pending.

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***F M Express Food Mart, Inc., and Fouad Hanna Mekdessi v. Rylander, et al.***

Cause #GN002724

AG Case #001353960

Sales Tax; Injunction Filed: 09/15/00 Period: 12/01/90- 11/30/97 Amount: \$360,671.05	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  Percy L. "Wayne" Isgitt Houston
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Issue: Whether Comptroller's "estimated audit" is invalid. Whether Plaintiffs are entitled to an injunction of collection and of cancellation of their sales tax permits. Whether Tax Code §§112.051, 112.052, 112.101 and 112.108 are unconstitutional violations of the open courts provision. Plaintiffs seek a re-audit and a refund of money paid under protest in excess of the re-audited amount.

Status: Discovery in progress. Plaintiffs currently preparing settlement offer.

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***FXI Corp. v. Rylander, et al.*** Cause #GN102724

AG Case #011492857

Sales Tax; Refund Filed: 08/22/01 Period: 10/01/94- 06/30/98 Amount: \$51,832.31	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Mark W. Eidman Ray Langenberg Eric Hagenswold Scott, Douglass & McConnico Austin
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Issue: Whether Plaintiff's boxes and packing materials are exempt as items shipped out-of-state. Whether denial of the exemption violates equal protection.

Status: Discovery in progress. Plaintiff's Motion for Summary Judgment set for hearing 04/09/03.

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***Fiesta Texas Theme Park, Ltd. v. Sharp, et al.*** Cause #98-02407

AG Case #98-914152

Sales Tax; Refund	Asst. AAG Assigned:	Jana Kinkade
Filed: 03/05/98		
Period: 10/01/90-04/30/93	Plaintiff's Counsel:	Jasper G. Taylor, III Fulbright & Jaworski Houston
Amount: \$328,829		

Issue: Whether prizes awarded by Plaintiff to successful contestants of coin-operated as well as non-coin operated games are purchased for resale. Whether sales tax constitutes double taxation on machines on which occupation tax is paid and on non-coin games, admission to which is taxed. Advertising and sewing services are not taxable.

Status: Discovery in progress. Scheduling order filed. Trial date to be reset. Plaintiffs to file unopposed Motion to Substitute Counsel.

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***Fiesta Texas Theme Park, Ltd. and San Antonio Theme Park, L.P. v. Rylander, et al.*** Cause #GN200563

AG Case #021567789

Sales Tax; Refund	Asst. AAG Assigned:	Jana Kinkade
Filed: 02/20/02		
Period: 05/01/93-03/01/96	Plaintiff's Counsel:	Jasper G. Taylor III Jay M. Chadha Fulbright & Jaworski Houston
03/01/96-02/28/98		
Amount: \$592,759.97		
\$349,933.08		

Issue: Whether prizes awarded by Plaintiff to successful contestants of coin-operated as well as non-coin operated games are purchased for resale. Whether sales tax constitutes double taxation on machines on which occupation tax is paid and on non-coin games, admission to which is taxed. Advertising and sewing services are not taxable. Whether the assessment against Fiesta was outside limitations.

Status: Consolidated with Cause No. 98-02407.

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**Garza, Lawrence v. Sharp, et al.** Cause #98-07607

AG Case #98-1001886

Sales Tax; Protest

Asst. AAG Assigned:

Jana Kinkade

Filed: 07/17/98

Period: 01/01/93-

Plaintiff's Counsel:

Stephen P. Dillon

09/30/95

Lindeman & Dillon

Amount: \$83,910

Houston

Issue: Whether the Comptroller used the proper sampling procedure and whether Plaintiff was correctly notified of the procedure to be used.

Status: Discovery in progress. Trial setting passed by agreement.

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**Gateway Homes, Inc. v. Sharp, et al.** Cause #98-14225

AG Case #99-1093188

Sales Tax; Protest

Asst. AAG Assigned:

Christopher Jackson

Filed: 12/22/98

Period: 01/01/91-

Plaintiff's Counsel:

Mark W. Eidman

09/30/95

Ray Langenberg

Amount: \$133,146.26

Paige Arnette

Scott, Douglass &

McConnico

Austin

Issue: Whether various service activities such as landscaping, cleaning and waste removal are taxable real property services. Whether any tax due is owed by independent contractor service providers under a tax-included contract. Whether tax was assessed on non-taxable new construction. Whether the assessment violates equal protection and whether interest should be waived.

Status: Answer filed. Outcome pending *Perry Homes v. Rylander, et al.*

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**General Dynamics Corp. v. Rylander, et al.** Cause #GN201322

AG Case #021598057

Sales Tax; Refund

Asst. AAG Assigned:

Jim Cloudt

Filed: 04/22/02

Period: 09/01/88-

Plaintiff's Counsel:

Ira A. Lipstet

11/30/91

Matthew G. Grimmer

Amount: \$7,000,000

Jenkins & Gilchrist

Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*.

Status: Answer filed.

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**General Dynamics Corp. v. Rylander, et al.** Cause #GN201323

AG Case #021598073

Sales Tax; Refund

Filed: 04/22/02

Period: 12/01/91-

02/28/93

Amount: \$4,500,000

Asst. AAG Assigned:

Jim Cloudt

Plaintiff's Counsel:

Ira A. Lipstet

Matthew G. Grimmer

Jenkins & Gilchrist

Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*.

Status: Answer filed.

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**Gift Box Corp. of America, Inc. v. Rylander, et al.** Cause #GN102934

AG Case #011492865

Sales Tax; Protest

Filed: 09/05/01

Period: 10/91-03/97

Amount: \$359,929.22

Asst. AAG Assigned:

Blake Hawthorne

Plaintiff's Counsel:

Ira A. Lipstet

Matthew G. Grimmer

Jenkins & Gilchrist

Austin

Issue: Whether additional resale certificates should have been accepted for Plaintiff's sales of boxes and packaging materials.

Status: Answer filed. Plaintiff to make settlement offer.

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**Graybar Electric Co., Inc. v. Sharp, et al.** Cause #97-01795

AG Case #97-682966

Sales Tax; Protest

Filed: 02/13/97

Period: 01/01/88-

12/31/91

Amount: \$107,667

Asst. AAG Assigned:

Scott Simmons

Plaintiff's Counsel:

Mark W. Eidman

Ray Langenberg

Scott, Douglass &

McConnico

Austin

Issue: Whether the sample audit resulted in a correct assessment.

Status: Trial scheduled 08/18/03.

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**H.J. Wilson Co., Inc. v. Sharp, et al.** Cause #98-11574

AG Case #98-1063332

Sales Tax; Protest

Filed: 10/13/98

Period: 07/01/90-

12/31/93

Amount: \$1,076,019

Asst. AAG Assigned:

Christopher Jackson

Plaintiff's Counsel:

David E. Cowling

Jones, Day, Reavis &

Pogue

Dallas

Issue: Whether the purchase of sales catalogs printed out-of-state and shipped to Plaintiff's customers in Texas (at no charge to the customer) incur sales tax.

Status: Answer filed. On hold. Plaintiff filed bankruptcy in Tennessee 03/25/99. Motion to dismiss by court set 05/07/01. Plaintiff filed motion to retain 04/25/01.

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**Hawa, Hunter Travis on behalf of all others similarly situated v. Red Lobster of Texas, Inc., et al.** Cause #A-0166552

AG Case #021621339

Sales Tax; Refund

Filed: 05/14/02

Period:

Amount: \$

Asst. AAG Assigned:

Gene Storie

Plaintiff's Counsel:

Peter Tropoli

Houston

Issue: Whether the State is liable to a retailer who is sued in a class action to recover overpaid sales taxes.

Status: Mediation held 01/10/03. Claims against Comptroller dismissed.

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***Herndon Marine Products, Inc. v. Sharp, et al.*** Cause #91-14786

AG Case #91-164788

Sales Tax; Refund	Asst. AAG Assigned:	Jim Cloudt
Filed: 10/18/91		
Period: 01/01/87 -	Plaintiff's Counsel:	John D. Bell
03/31/90		Wood, Boykin & Wolter
Amount: \$62,465		Corpus Christi

Issue: Whether predominant use of electricity from Plaintiff's meter is exempt. Whether burden of proof in administrative hearing should be clear and convincing evidence or preponderance of the evidence.

Status: Special exceptions and answer filed.

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***Hines Interests Limited Partnership v. Rylander, et al.*** Cause #GN003245

AG Case #001381680

Sales Tax; Protest & Refund	Asst. AAG Assigned:	Christopher Jackson
Filed: 11/08/00		
Period: 07/01/92-	Plaintiff's Counsel:	Gerard A. Desrochers
02/28/94		Houston
Amount: \$129,677.60		

Issue: Whether correction of original construction defects is new construction or real property repair and remodeling. Whether Comptroller Rule 3.357 conflicts with legislative intent. Whether the Comptroller's application of the statute and rule violate due process and equal protection. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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***House of Lloyd, Inc. v. Rylander, et al.*** Cause #GN000111

AG Case #001261478

Sales Tax; Protest & Refund	Asst. AAG Assigned:	Steve Rodriguez
Filed: 01/21/00		
Period: 06/01/92-	Plaintiff's Counsel:	Marilyn A. Wethekam
12/31/96		Horwood Marcus & Berk
Amount: \$597,281.67		Chartered
		Chicago, Illinois
		L.G. (Skip) Smith
		Clark, Thomas & Winters
		Austin

Issue: Whether Plaintiff owes use tax on direct sales items, hostess free goods and demonstrator kits. Whether Plaintiff owes tax for under-collection of local sales tax. Whether the Comptroller's sample was flawed because it failed to consider over-collections of tax. Whether penalty should be waived.

Status: Dismissed for Want of Prosecution. Motion to Reinstate granted. Trial set 07/16/03.

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***Interpak Terminals, Inc. v. Sharp, et al.*** Cause #95-15213  
AG Case #95-428718

Sales Tax; Protest Filed: 12/07/95 Period: 04/01/89- 06/19/95 Amount: \$14,125	Asst. AAG Assigned:  Plaintiff's Counsel:	Scott Simmons  Paul Price Tom Wheat Pearson & Price Corpus Christi
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Issue: Whether Plaintiff is entitled to the exemption for wrapping and packaging materials it uses to package plastic pellets sent to it by the manufacturer of the pellets.

Status: Discovery in progress.

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***JBI, Inc. v. Rylander, et al.*** Cause #GN203450  
AG Case #

Sales Tax; Protest Filed: 09/20/02 Period: 01/01/93- 08/31/99 Amount: \$1,046,033.09	Asst. AAG Assigned:  Plaintiff's Counsel:	Christine Monzingo  W. Stephen Benesh James E. Boice Bracewell & Patterson Austin
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Issue: Whether the Comptroller assessed tax on transactions that were sales for resale or on which use tax had already been paid.

Status: Answer filed.

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**JHS Enterprises, Inc. v. Rylander, et al.** Cause #GN201357

AG Case #021613591

Sales Tax; Declaratory  
Judgment

Asst. AAG Assigned:

Steve Rodriguez

Filed: 04/25/02

Plaintiff's Counsel:

Arne M. Ray

Period: 01/01/97-

Ray & Associates

09/30/99

Houston

Amount: \$77,774.37

Issue: Whether Plaintiff owes tax for storage of abandoned vehicles later sold by the City of Houston. Plaintiff also seeks attorneys fees.

Status: Plaintiff granted declaratory judgment action without pre-payment of tax.

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**Jerman Cookie Co. v. Rylander, et al.** Cause #GN101492

AG Case #011451598

Sales Tax; Refund and  
Declaratory Judgment

Asst. AAG Assigned:

Scott Simmons

Filed: 05/16/01

Plaintiff's Counsel:

Steve M. Williard

Period: 12/01/92 through

L. Don Knight

03/31/97

Meyer, Knight &

Amount: \$43,121.45

Williams

Houston

Issue: Whether plaintiff's sale of cookies and brownies is taxable under Tax Code §151.314 and Comptroller Rule 3.293. Plaintiff also seeks review under the Administrative Procedures Act and the UDJA, and seeks attorneys fees.

Status: Amended Petition filed. Discovery in progress.

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**John Hancock Mutual Life Insurance Co., The v. Rylander, et al.** Cause

#GN001612

AG Case #001316520

Sales Tax; Refund

Asst. AAG Assigned:

Blake Hawthorne

Filed: 06/05/00

Plaintiff's Counsel:

James D. Blume

Period: 01/01/94-

Jennifer S. Stoddard

12/31/98

Blume & Stoddard

Amount: \$345,377.95

Dallas

Issue: Whether an insurance company is exempt from sales taxes on its use of electricity on the grounds that Tex. Ins. Code Art. 4.11, Section 9 prohibits them.

Status: Motion for Summary Judgment filed. No hearing date set.

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***Kennedy, Gary G. dba Kennedy's Korner v. Rylander, et al.*** Cause #GN202992  
AG Case #021663539

Sales Tax; Declaratory Judgment	Asst. AAG Assigned:	Steve Rodriguez
Filed: 08/22/02	Plaintiff's Counsel:	Christopher J. Tome
Period:		Attorney at Law
Amount: \$		Austin

Issue: Whether Plaintiff may enjoin fraud audit subpoena and suspension of his sales and mixed beverage permits.

Status: Answer filed. Counter-claim filed.

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***LTV Aerospace & Defense Co. v. Rylander, et al.*** Cause #GN203321  
AG Case #021676770

Sales Tax; Refund & Declaratory Judgment	Asst. AAG Assigned:	Jim Cloudt
Filed: 09/13/02	Plaintiff's Counsel:	Alan E. Sherman, Esq.
Period: 06/01/86- 08/31/92		Dallas
Amount: \$8,576,046		

Issue: Plaintiff claims a sale for resale exemption on items resold to the federal government. Plaintiff also claims a denial of equal protection and that the incidence of the tax falls on the federal government. Plaintiff claims that the Comptroller violated the commerce clause by failing to follow title-passing regulations and also seeks a declaratory judgment and attorneys' fees.

Status: Answer filed.

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**LabOne, Inc. v. Rylander, et al.** Cause #GN002190

AG Case #001335645

Sales Tax; Protest &  
Declaratory Judgment

Filed: 08/02/00

Period: 1991-1997

Amount: \$520,983.95

Asst. AAG Assigned:

Blake Hawthorne

Plaintiff's Counsel:

James F. Martens

Kirk R. Lyda

Stahl, Martens & Bernal  
Austin

Issue: Whether Plaintiff has nexus in Texas for tax on performance of lab tests in Kansas. Whether Plaintiff's activities are taxable insurance services in Texas. Whether Plaintiff's services and sales of supplies are exempt by rule and statute. Whether tax on Plaintiff violates due process and equal taxation. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Plaintiff's motion for summary judgment hearing held 06/24/02. District Court denied parties' cross-motions for summary judgment. Trial set 06/30/03.

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**Lake Charles Yamaha, Inc. v. Morales, et al.** Cause #95-3802

AG Case #95-325883

Sales Tax; Declaratory  
Judgment

Filed: 07/11/95

Period: 04/01/91-  
03/31/95

Amount: \$150,214

Asst. AAG Assigned:

Jana Kinkade

Plaintiff's Counsel:

Russell J. Stutes, Jr.  
Scofield, Gerard, Veron,  
Singletary & Pohorelsky  
Lake Charles, Louisiana

Issue: Plaintiff asserts that it has no nexus with Texas and cannot be assessed sales tax, although it concedes that it delivers merchandise into Texas in its own trucks. Plaintiff asks for a declaratory judgment and damages/attorneys fees under 42 USC §§1983 and 1988.

Status: Will be dismissed or non-suited pursuant to Lake Charles Music suit, Louisiana Appeals Court.

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**Laredo Country Club, Inc., A Texas Corp. v. Sharp, et al.** Cause #98-11834  
AG Case #98-1064363

Sales Tax; Protest;	Asst. AAG Assigned:	Scott Simmons
Declaratory Judgment		
Filed: 10/20/98	Plaintiff's Counsel:	John Christian
Period: 08/1-30/98		Vinson & Elkins
Amount: \$2,054		Austin

Issue: Whether sales tax is due on the portion of country club membership fees designated as "capital improvement fees" and "gratuities."

Status: Dismissed for Want of Prosecution 07/25/02. Reopened, as plaintiff has filed a Motion for Reinstatement in 10/02.

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**Lebaron Hotel Corp., dba The Lebaron Hotel v. Sharp, et al.** Cause #91-17399  
AG Case #92-10477

Sales Tax; Protest	Asst. AAG Assigned:	Steve Rodriguez
Filed: 12/13/91		
Period: 10/01/87 -	Plaintiff's Counsel:	Robert C. Cox
06/30/90		Dallas
Amount: \$22,326		

Issue: Whether Comptroller could tax an arbitrary percentage of ingredients in complimentary mixed drinks and whether ingredients are exempt because they are taxed elsewhere. Is tax due on repairs to parking lot. Whether purchase of items from Ramada Inn is exempt as entire operating assets of a business or identifiable segment.

Status: Answer filed.

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**Lee Construction and Maintenance Co. v. Rylander, et al.** Cause #99-01091  
AG Case #99-1112160

Sales Tax; Protest	Asst. AAG Assigned:	Scott Simmons
Filed: 01/29/99		
Period: 01/01/92-	Plaintiff's Counsel:	Timothy M. Trickey
12/31/95		The Trickey Law Firm
Amount: \$31,830.47		Austin

Issue: Various issues, including credits for bad debts, tax paid, tax on new construction and tax paid in Louisiana, resale exemptions and waiver of penalty and interest.

Status: Settlement negotiations pending.

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***Liaison Resources, L.P., and David S. Claunch v. Rylander, et al.*** Cause  
#GN202795  
AG Case #021663307

Sales Tax; Protest & Declaratory Judgment	Asst. AAG Assigned:	Scott Simmons
Filed: 08/14/02	Plaintiff's Counsel:	James F. Martens
Period: 1991-1999		Christina A. Mondrik
Amount: \$136,659.08		Stahl, Martens & Bernal Austin

Issue: Whether Plaintiffs owe tax on computer-related temporary services. Whether the Comptroller improperly assessed tax on items sold out of state or on sales for resale. Plaintiffs also claim a violation of equal protection and seek attorneys' fees.

Status: Meeting with Plaintiff in April to discuss issues..

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***Liu, Anne Lee v. Rylander*** Cause #GN202414  
AG Case #021649835

Sales Tax; Declaratory Judgment	Asst. AAG Assigned:	Christopher Jackson
Filed: 07/25/02	Plaintiff's Counsel:	Mark. N. Osborn
Period: 2002		Andrew S. Miller
Amount: \$		Kemp Smith, P.C. El Paso

Issue: Plaintiff contests the suspension of its Texas Custom Broker License and disagrees with the Comptroller's policy on goods being exported.

Status: Answer filed.

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***Local Neon Co., Inc. v. Rylander, et al.*** Cause #99-15042  
AG Case #001254036

Sales Tax; Protest & Declaratory Judgment	Asst. AAG Assigned:	Blake Hawthorne
Filed: 12/31/99	Plaintiff's Counsel:	James D. Blume
Period:		Jennifer S. Stoddard
Amount: \$34,390.24		Blume & Stoddard Dallas
		Judy M. Cunningham Austin

Issue: Whether Plaintiff was doing business in Texas by delivering and installing its signs that were sold under contract negotiated outside of Texas. Whether Plaintiff is entitled to declaratory judgment and attorneys' fees.

Status: Discovery in progress.

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***Lockheed Martin Corp., as Successor to Lockheed Martin Vought Systems Corp. and Loral Vought Systems Corp. v. Rylander, et al.*** Cause #GN103525  
AG Case #011523446

Sales Tax; Refund &  
Declaratory Judgment  
Filed: 10/24/01  
Period: 09/01/92-  
11/30/95  
Amount: \$2,680,000

Asst. AAG Assigned:

Jim Cloudt

Plaintiff's Counsel:

Mark W. Eidman  
Ray Langenberg  
Doug Sigel  
Curtis J. Osterloh  
Scott, Douglass &  
McConnico  
Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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***Lockheed Corp. v. Rylander, et al.*** Cause #GN201000  
AG Case #021583745

Sales Tax; Refund  
Filed: 03/26/02  
Period: 03/01/93-  
01/31/96  
Amount: \$7,000,000

Asst. AAG Assigned:

Jim Cloudt

Plaintiff's Counsel:

Ira A. Lipstet  
Matthew G. Grimmer  
Jenkins & Gilchrist  
Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*.

Status: Answer filed.

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**Lockheed Martin Corp. v. Rylander, et al.** Cause #GN200999

AG Case #021583737

Sales Tax; Refund

Filed: 03/26/02

Period: 01/01/96-  
09/30/97

Amount: \$3,500,000

Asst. AAG Assigned:

Plaintiff's Counsel:

Jim Cloudt

Ira A. Lipstet  
Matthew G. Grimmer  
Jenkins & Gilchrist  
Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*.

Status: Answer filed.

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**Lockheed Martin Corp., Successor to Lockheed Martin Vought Systems Corp. v. Rylander, et al.** Cause #GN201725

AG Case #021620414

Sales Tax; Refund &  
Declaratory Judgment

Filed: 05/23/02

Period: 12/01/95-  
06/30/97

Amount: \$1,857,000

Asst. AAG Assigned:

Plaintiff's Counsel:

Jim Cloudt

Mark W. Eidman  
Ray Langenberg  
Doug Sigel  
Curtis J. Osterloh  
Scott, Douglass &  
McConnico  
Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*.

Status: Answer filed.

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**Lockheed Martin Corp. v. Strayhorn, et al.** Cause #GN300420

AG Case #031751118

Sales Tax; Refund &  
Declaratory Judgment

Filed: 02/10/03

Period: 07/01/97-  
07/31/01

Amount: \$2,837,000

Asst. AAG Assigned:

Jim Cloudt

Plaintiff's Counsel:

Mark W. Eidman  
Ray Langenberg  
Doug Sigel  
Scott, Douglass &  
McConnico  
Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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**Medaphis Physicians Services Corp. v. Sharp, et al.** Cause #94-11610

AG Case #94-149390

Sales Tax; Protest and  
Declaratory Judgment

Filed: 09/16/94

Period: 05/01/94-  
06/30/94

Amount: \$17,063

Asst. AAG Assigned:

Blake Hawthorne

Plaintiff's Counsel:

Gary Miles  
Sherri Alexander  
Johnson & Wortley  
Dallas

Issue: Whether Plaintiff's services are taxable (1) insurance services, (2) debt collection services, or (3) data processing services, and whether Rules 3.330, 3.354, and 3.355 exceed the Comptroller's rule making authority.

Status: Inactive.

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**Melek Corp. v. Rylander** Cause #GN100441

AG Case #011410511

Sales Tax; Declaratory  
Judgment

Filed: 02/12/01

Period: 2000

Amount: \$

Asst. AAG Assigned:

Christopher Jackson

Plaintiff's Counsel:

Mark N. Osborn  
Shelly Rivas  
Kemp Smith, P.C.  
El Paso

Issue: Plaintiff contests the suspension of its Texas Customs Broker License and disagrees with the Comptroller's policy on goods being exported.

Status: Answer filed. Discovery in progress.

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**Melek Corp. v. Rylander, et al.** Cause #2002-5377  
AG Case #021709928

Sales Tax; Injunction & Declaratory Judgment	Asst. AAG Assigned:	Christopher Jackson
Filed: 11/22/02	Plaintiff's Counsel:	Mark N. Osborn
Period: 2000		Shelly Rivas
Amount: \$		Kemp Smith, P.C.
		ElPaso

Issue: Plaintiff seeks permanent injunction and declaratory relief from the suspension of its Texas Customs Broker License after its appeal to the district court was dismissed for want of prosecution.

Status: Temporary Injunction granted 12/02/02. Motion to Change Venue and Plea to the Jurisdiction filed. Agreed Order of Transfer signed 01/14/03. Hearing set 06/09/03.

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**Mitchell, Christia Parr v. Rylander, et al.** Cause #GN201330  
AG Case #021604541

Sales Tax; Refund	Asst. AAG Assigned:	Scott Simmons
Filed: 04/22/02	Plaintiff's Counsel:	Christia Parr Mitchell,
Period: 01/01/95- 12/31/98		Pro Se
Amount: \$160,870.48		San Antonio

Issue: Whether plaintiff may recover a sales tax refund for taxes paid by a corporation controlled by her ex-husband when the liability was paid pursuant to orders of the court in which the divorce was granted.

Status: Answer filed. Petition on related appeal in 4<sup>th</sup> Court of Appeals.

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***Nachhattar Tejpal Legha Enterprises, Inc. v. Rylander, et al.*** Cause #GN203398

AG Case #021676812

Sales Tax; Refund & Declaratory Judgment	Asst. AAG Assigned:	Scott Simmons
Filed: 09/18/02	Plaintiff's Counsel:	James F. Martens
Period: 04/01/97- 07/31/99		Jessica Scott
Amount: \$15,841		Stahl, Martens & Bernal Austin

Issue: Plaintiff claims that the Comptroller wrongfully assessed additional sales tax by misstating Plaintiff's gross taxable receipts and wrongfully failed to entertain Plaintiff's refund claim. Plaintiff also seeks a declaratory judgment and attorneys' fees.

Status: Answer filed.

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***National Business Furniture, Inc. v. Sharp, et al.*** Cause #98-03927

AG Case #98-932766

Sales Tax; Protest & Declaratory Judgment	Asst. AAG Assigned:	Steve Rodriguez
Filed: 04/15/98	Plaintiff's Counsel:	Gilbert J. Bernal, Jr.
Period: 01/01/93- 07/31/95		Stahl, Martens & Bernal Austin
Amount: \$68,398		

Issue: Whether promotional materials printed out-of-state and delivered into Texas are subject to use tax.

Status: Trial set 12/15/03.

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***Neiman Marcus Group, Inc. v. Sharp, et al.*** Cause #93-10279-A

AG Case #93-340549

Sales Tax; Protest, Refund & Declaratory Judgment	Asst. AAG Assigned:	Christopher Jackson
Filed: 08/26/93	Plaintiff's Counsel:	David E. Cowling
Period: 01/01/87- 03/31/90		Gregg Perry
Amount: \$1,046,465		Jones, Day, Reavis & Pogue Dallas

Issue: Plaintiff's customers buy gifts from Plaintiff outside Texas and have the gifts delivered by common carrier to Texas "donees." Should the Comptroller have assessed use tax on these "gift sends." Second Issue: whether tax is due on certain remodeling services. Plaintiff asks for attorneys fees under 42 USC §§1983 and 1988.

Status: Agreed judgment signed 03/11/96 on the gift send issue. An agreed order for severance was signed on 03/11/96 on the remodeling issues and the attorneys' fees. Cause renumbered 93-10279-A. State filed a plea to jurisdiction on attorneys' fees on 10/06/93.

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***Neiman Marcus Group, Inc., The v. Rylander, et al.*** Cause #GN102403  
AG Case #011478294

Sales Tax; Protest Filed: 08/01/01 Period: 04/01/90- 12/31/93 Amount: \$1,908,969.01	Asst. AAG Assigned:  Plaintiff's Counsel:	Jim Cloudt  Mark W. Eidman Ray Langenberg Scott, Douglass & McConnico Austin
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Issue: Whether printing charges for catalogs are not subject to use tax because: (a) the printing services were not used in Texas, (b) the printed catalogs were gifts for which title transferred outside Texas, (c) plaintiff did not have sufficient control to be a Texas user, (d) the statute does not include distribution in the definition of use, (e) no use tax is due under the doctrine of *Morton Bldgs.*, (f) Rule 3.346(b)(3)(A) does not apply or is invalid, and/or (g) Tax Code 151.3111(a) exempts the printing service. Whether photograph retouching is (a) a sale of tangible personal property, or (b) repair, remodeling, maintenance or restoration of tangible personal property, or (c) exempt under Tax Code 151.330(e). Also, whether remodeling contracts were tax included and whether sampling was improper. Plaintiff seeks attorneys fees.

Status: Answer filed.

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***North American Intelcom, Inc., et al. v. Sharp, et al.*** Cause #97-05318  
AG Case #97-733563

Sales Tax; Refund Filed: 05/02/97 Period: 04/01/91- 05/31/95 Amount: \$2,029,180	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  Jasper G. Taylor, III Fulbright & Jaworski Houston
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Issue: Whether care, custody, and control of Plaintiff's public telephone equipment passed to their customers, so that Plaintiff could buy the equipment tax free for resale.

Status: Inactive.

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**North Texas Asset Management, Inc. v. Sharp, et al.** Cause #94-08603  
AG Case #94-113766

Sales Tax; Declaratory Judgment	Asst. AAG Assigned:	James Parsons
Filed: 7/14/94	Plaintiff's Counsel:	Judy M. Cunningham
Period: 05/02/91-12/31/91		Attorney at Law
Amount: \$24,307		Austin

Issue: Whether a sale of a business approved by the SBA (which held a lien and received the proceeds) is tantamount to a foreclosure sale so that no successor liability should attach.

Status: Answer filed; inactive. Parties are involved in informal discussions to resolve or eliminate issues currently in controversy.

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**Northrop Grumman Systems Corp. (Successor to Northrop Grumman Corp. and Vought Aircraft Co.) v. Rylander, et al.** Cause #GN201344  
AG Case #021607155

Sales Tax; Refund & Declaratory Judgment	Asst. AAG Assigned:	Jim Cloudt
Filed: 05/01/02	Plaintiff's Counsel:	Gilbert J. Bernal, Jr.
Period: 09/01/92-11/30/95		Kirk R. Lyda
Amount: \$1,600,000		Stahl, Martens & Bernal
		Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*. Plaintiff claims that collection of the tax violates the supremacy clause as a tax on the U.S. government and that the Comptroller violated the constitutional requirements of equal protection and equal taxation by denying the refund claim. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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**Norwood Homes, Inc. v. Sharp, et al.** Cause #98-05637

AG Case #98-970135

Sales Tax; Refund

Filed: 05/28/98

Period: 10/01/92-  
06/30/96

Amount: \$77,887.44

Asst. AAG Assigned:

Plaintiff's Counsel:

Blake Hawthorne

John W. Mahoney  
Williams, Birnberg &  
Andersen  
Houston

Issue: Whether certain cleaning services are taxable as real property services or are part of new construction of real property.

Status: Discovery in progress.

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**Perry Homes, A Joint Venture v. Sharp, et al.** Cause #98-14226

#03-02-00476-CV

AG Case #99-1093170

Sales Tax; Protest

Filed: 12/22/98

Period: 10/01/91-  
09/30/93

Amount: \$550,978.17

Asst. AAG Assigned:

Plaintiff's Counsel:

Christopher Jackson

Mark W. Eidman  
Ray Langenberg  
Paige Arnette  
Scott, Douglass &  
McConnico  
Austin

Issue: Whether various service activities such as landscaping, cleaning and waste removal are taxable real property services. Whether any tax due is owed by independent contractor service providers under a tax- included contract. Whether tax was assessed on non-taxable new construction. Whether the assessment violates equal protection and whether interest should be waived.

Status: Defendants' Motion for Summary Judgment filed. Summary Judgment Hearing held 06/13/02. Judgment granted in Comptroller's favor 07/15/02. Plaintiff filed Notice of Appeal 07/24/02. Clerk's Record filed 09/06/02. Supplemental Clerk's Record filed 09/17/02. Plaintiff's brief filed 10/07/02. Appellant filed appeal 07/24/02. Appellees' brief filed 10/25/02. Appellant filed Motion 11/15/02 to postpone oral argument. Oral argument completed 01/08/03. Appellees' post-submission brief filed 01/21/03.

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***Petrolite Corp. v. Sharp, et al.*** Cause #91-13885

AG Case #91-149840

Sales Tax; Protest and  
Refund

Asst. AAG Assigned:

Blake Hawthorne

Filed: 09/27/91

Plaintiff's Counsel:

David H. Gilliland

Period: 04/01/84 -

Clark, Thomas & Winters

03/31/88

Austin

Amount: \$432,105

Issue: Resale certificates; taxable maintenance services; taxability of various chemicals and other tangible personal property used in oil well services.

Status: Inactive.

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***Praxair, Inc. v. Sharp, et al.*** Cause #97-03919 (consolidated with Cause No.

95-00690, *Praxair, Inc. v. Sharp, et al.*)

AG Case #97-706272

Sales Tax; Refund &  
Declaratory Judgment

Asst. AAG Assigned:

Jana Kinkade

Filed: 04/01/97

Plaintiff's Counsel:

Gerard A. Desrochers

Period: 01/01/90-

Houston

12/31/90

Amount: \$57,815

Issue: Whether the Comptroller erroneously denied Plaintiff's claim for refund of tax paid on manufacturing equipment, alleging that Plaintiff was not engaged in actual manufacturing.

Status: See Cause No. 95-00690, *Praxair, Inc. v. Sharp, et al.*

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***Praxair, Inc. v. Sharp, et al.*** Cause #95-00690

AG Case #95-214921

Sales Tax; Refund &  
Declaratory Judgment

Asst. AAG Assigned:

Jana Kinkade

Filed: 01/18/95

Plaintiff's Counsel:

Gerard A. Desrochers

Period: 1990

Houston

Amount: \$74,608

Issue: Whether the Comptroller erroneously denied Plaintiff's claim for refund of tax paid on manufacturing equipment, alleging that Plaintiff was not engaged in actual manufacturing.

Status: Discovery in progress. Stipulation of facts in progress.

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***R Communications, Inc. f/k/a RN Communications, Inc. v. Sharp, et al.*** Cause #91-4893  
#03-91-00390CV  
AG Case #91-62355

Sales Tax; Declaratory Judgment	Asst. AAG Assigned:	Gene Storie
Filed: 04/08/91	Plaintiff's Counsel:	Mark How
Period: 10/01/80 - 11/02/84		Short, How, Frels & Tredoux
Amount: \$None		Dallas
(Plaintiff was assessed \$67,836 tax but did not pay)		

Issue: Whether a taxpayer can be required to pay the disputed tax before filing suit in district court. Constitutionality of §112.108 under Texas Constitution Open Courts provision.

Status: District Court granted State's plea to the jurisdiction. State won appeal. Supreme Court reversed and remanded on 04/27/94. State's motion for rehearing denied. Inactive.

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***RAI Credit Corp. v. Rylander, et al.*** Cause #GN003556  
AG Case #011395266

Sales Tax; Refund & Declaratory Judgment	Asst. AAG Assigned:	Jim Cloudt
Filed: 12/12/00	Plaintiff's Counsel:	David Cowling
Period: 01/01/89-12/31/93		Gregory E. Perry
Amount: \$297,616.32		Jones, Day, Reavis & Pogue
		Dallas

Issue: Whether Plaintiff lacks nexus for collection of use tax on accounts receivable that were factored to it. Whether Plaintiff is a “seller” or “retailer” engaged in business in Texas. Whether Plaintiff is liable under §111.016 as a person who received tax. Whether imposition of tax denies equal protection. Plaintiff also seeks declaratory relief and attorneys’ fees.

Status: Answer filed.

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***Raytheon E-Systems, Inc. v. Rylander, et al.*** Cause #GN101511

#03-02-00346-CV

AG Case #011451606

Sales Tax; Declaratory  
Judgment and Refund

Filed: 05/17/01

Period: 06/01/89 -  
12/31/96

Amount: \$6,000,000

Asst. AAG Assigned:

Plaintiff's Counsel:

Jim Cloudt

Mark W. Eidman  
Ray Langenberg  
Doug Sigel  
Curtis J. Osterloh  
Scott, Douglass &  
McConnico  
Austin

Issue: Whether title passed to the federal government according to Plaintiff’s contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*. Plaintiff also seeks attorneys’ fees.

Status: Discovery in progress. Summary Judgment hearing held 03/05/02. Partial summary judgment for plaintiff signed 03/29/02. Trial scheduled for 05/16/02. Judgment for Raytheon granted 05/15/02. Defendants’ notice of appeal filed 06/04/02. Plaintiff’s notice of appeal filed 06/14/02. Appellants’ brief filed 09/20/02. Brief on cross-appeal filed 09/30/02. Appellants’ brief filed 10/18/02. Appellants’ reply brief filed 11/07/02. Oral argument completed 12/04/02. Appellee’s post-submission brief filed 12/10/02. Comptroller’s post-submission brief filed 12/15/02. Trial court affirmed, in part, remanded, in part, 01/30/03. Motion for Rehearing due 03/17/03.

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**Raytheon Co., as Successor in Interest to Raytheon Training, Inc. v. Rylander, et al.** Cause #GN201022  
AG Case #021588694

Sales Tax; Refund & Declaratory Judgment	Asst. AAG Assigned:	Jim Cloudt
Filed: 03/28/02	Plaintiff's Counsel:	Mark W. Eidman
Period: 08/01/88 - 05/31/97		Scott, Douglass & McConnico
Amount: \$2,500,000.00		Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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**Roadway Express, Inc. v. Rylander, et al.** Cause #GN002831  
AG Case #001357631

Sales Tax; Protest & Declaratory Judgment	Asst. AAG Assigned:	Jim Cloudt
Filed: 09/25/00	Plaintiff's Counsel:	David Cowling
Period: 04/01/88- 05/31/92		Robert Lochridge
Amount: \$713,686.05 \$206,053.87		Jones, Day, Reavis & Pogue Dallas

Issue: Whether various equipment used by the Plaintiff with its trucks is exempt from use tax as tangible personal property sold to a common carrier for use outside the state. Alternatively, whether the equipment had been taxed as vehicle components under the interstate motor carrier tax and could not be taxed as "accessories." Alternatively, whether taxing 100% of the value of the equipment violates the Commerce Clause because of a lack of substantial nexus and of fair apportionment. Whether all tax was paid on Plaintiff's repair and remodeling contracts and capital assets. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Answer filed.

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**Rockwell Collins, Inc. v. Rylander, et al.** Cause #GN203339

AG Case #021676788

Sales Tax; Refund

Filed: 09/13/02

Period: 01/01/97-  
12/31/98

Amount: \$591,028.39

Asst. AAG Assigned:

Plaintiff's Counsel:

Jana Kinkade

David H. Gilliland  
Clark, Thomas & Winters  
Austin

Issue: Plaintiff claims a sale for resale exemption on items resold to the federal government. Plaintiff also claims a denial of equal protection and an exemption under §151.3111.

Status: Answer filed.

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**Rollins & Rollins Enterprises, Inc. , dba Country Kwik Stop v. Rylander, et al.**

Cause #GN202097

AG Case #021640651

Sales Tax; Protest

Filed: 06/28/02

Period: 08/01/97-  
07/31/00

Amount: \$45,059.74

Asst. AAG Assigned:

Plaintiff's Counsel:

Scott Simmons

William T. Peckham  
Austin

Issue: Whether Plaintiff is liable for tax on food sold from its convenience store area.  
Whether the Comptroller applied proper percentages for loss and waste.

Status: Answer filed.

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**Sanchez, Hector and Sidney Fernald, et al. v. Southwestern Bell Telephone Co.**

Cause #M-00-146

AG Case #011527892

Sales Tax; Class Action

Filed: 11/13/01

Period:

Amount: \$

Asst. AAG Assigned:

Plaintiff's Counsel:

Gene Storie

William J. Tinning  
Portland

Phil John  
Michael Levine  
Baker Botts  
Houston  
(Co-Defendants'  
Counsel)

Issue: Whether SWBT is liable to class action plaintiffs for over-collection of tax.  
Comptroller to provide testimony on tax.

Status: Comptroller to provide testimony on tax.

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***Schoenborn & Doll Enterprises, Inc. v. Rylander, et al.*** Cause #99-07605  
AG Case #99-1187592

Sales Tax; Protest & Declaratory Judgment	Asst. AAG Assigned:	Blake Hawthorne
Filed: 07/01/99	Plaintiff's Counsel:	Kevin W. Morse
Period: 07/01/95- 05/31/97		Blazier, Christensen & Bigelow
Amount: \$140,936.92		Austin

Issue: Whether the portion of Plaintiff's gym membership fee allocated to aerobic training is included in Plaintiff's taxable amusement services. Whether the Comptroller improperly disregarded the rule addressing non-taxable aerobic and tanning services under the amusement services tax. Whether the Comptroller should have applied its detrimental reliance policy.

Status: Inactive. Plaintiff paying tax under pay-out agreement.

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***Sears Roebuck & Co. v. Rylander, et al.*** Cause #99-04138  
AG Case #99-1152398

Sales Tax; Refund	Asst. AAG Assigned:	Jim Cloudt
Filed: 04/08/99	Plaintiff's Counsel:	David E. Cowling
Period: 10/01/88- 12/31/91		Jones, Day, Reavis & Pogue
Amount: \$1,792,421.59		Dallas

Issue: Whether use tax is owed on catalogs printed and shipped from out-of-state. Whether any taxable use was made or any consideration received by plaintiff. Whether "distribution" is a taxable use and whether the Comptroller's rule identifying it as such is valid. Whether imposition of the tax violates the due process, commerce, or equal protection clauses. Alternatively, whether calculation of the tax as on the correct cost basis, whether tax should not be collected because the catalogs are "books," and whether penalty should be waived.

Status: Answer filed.

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***Service Merchandise Co., Inc. v. Sharp, et al.*** Cause #98-11572

AG Case #98-1063308

Sales Tax; Protest Filed: 10/13/98 Period: 01/01/92- 12/31/93 Amount: \$413,569	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  David E. Cowling Jones, Day, Reavis & Pogue Dallas
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Issue: Whether the purchase of sales catalogs printed out-of-state and shipped to Plaintiff's customers in Texas (at no charge to the customer) incur sales tax.

Status: Answer filed. On hold. Plaintiff filed bankruptcy in Tennessee on 03/25/99. Motion to dismiss set 05/07/01. Plaintiff filed motion to retain 04/25/01.

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***Sharper Image Corp. v. Rylander, et al.*** Cause #GN203645

AG Case #021686779

Sales Tax; Protest, Refund & Declaratory Judgment Filed: 10/09/02 Period: 07/01/94- 11/30/97 Amount: \$264,355.46	Asst. AAG Assigned:  Plaintiff's Counsel:	Jim Cloudt  Gilbert J. Bernal, Jr. Stahl, Martens & Bernal Austin  Martin I. Eisenstein Kevin J. Beal Brann & Isaacson Lewiston, ME
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Issue: Whether use tax imposed on catalogs shipped from out-of-state is unlawful because: (1) plaintiff never used the catalogs in Texas; (2) the tax violates the Commerce Clause; and, (3) Rule 3.346 is unconstitutional. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Answer filed.

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**Sharper Image Corp. v. Rylander, et al.** Cause #GN203821

AG Case #021696851

Sales Tax; Protest,  
Refund & Declaratory  
Judgment  
Filed: 10/22/02  
Period: 12/01/97-  
03/31/01  
Amount: \$258,205.20

Asst. AAG Assigned:

Jim Cloudt

Plaintiff's Counsel:

Gilbert J. Bernal, Jr.  
Stahl, Martens & Bernal  
Austin

Martin I. Eisenstein  
Kevin J. Beal  
Brann & Isaacson  
Lewiston, ME

Issue: Whether use tax imposed on catalogs shipped from out-of-state is unlawful because:  
(1) plaintiff never used the catalogs in Texas; (2) the tax violates the Commerce Clause;  
and, (3) Rule 3.346 is unconstitutional. Plaintiff also seeks declaratory relief and  
attorneys' fees.

Status: Answer filed.

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**Southern Sandblasting and Coatings, Inc. v. Rylander, et al.** Cause #GN103910

AG Case #011532355

Sales Tax; Protest &  
Declaratory Judgment  
Filed: 11/27/01  
Period: 01/01/95-  
12/31/98  
Amount: \$219,219.35  
\$47.15

Asst. AAG Assigned:

Steve Rodriguez

Plaintiff's Counsel:

Gilbert J. Bernal, Jr.  
Kirk R. Lyda  
Stahl, Martens & Bernal  
Austin

Issue: Whether plaintiff's grit, used in sandblasting vessels, and materials such as paint-gun  
parts, are exempt as materials used in repairing vessels. Whether denial of the exemption  
violates equal protection. Plaintiff also seeks attorneys' fees.

Status: Discovery in progress. Trial set 09/08/03.

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***Southwest Food Processing & Refrigerated Services, aka Southwest Refrigerated Warehousing Services v. Rylander, et al.*** Cause #GN103390  
AG Case #011509668

Sales Tax; Protest Filed: 10/15/01 Period: 01/01/96- 12/31/99 Amount: \$188,477.57	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  H. Christopher Mott Krafsur Gordon Mott El Paso
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Issue: Whether plaintiff owes tax on electricity used to freeze food items.

Status: Answer filed.

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***Sprint International Communications, Inc. v. Sharp, et al.*** Cause #96-14298  
AG Case #96-637296

Sales Tax; Refund Filed: 11/22/96 Period: 02/01/86- 01/31/90 Amount: \$1,269,474	Asst. AAG Assigned:  Plaintiff's Counsel:	Steve Rodriguez  Wallace M. Smith Donald L. Stuart R. Kemp Kasling Drenner & Stuart Austin
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Issue: Whether networking services are taxable as telecommunications services.

Status: Discussions in progress.

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***Steamatic of Austin, Inc., et al. v. Rylander, et al.*** Cause #GN200631  
AG Case #021567771

Sales Tax; Refund Filed: 02/25/02 Period: 04/01/91- 04/30/94 Amount: \$103,335.27	Asst. AAG Assigned:  Plaintiff's Counsel:	Steve Rodriguez  Mark W. Eidman Ray Langenberg Scott, Douglass & McConnico Austin
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Issue: Whether plaintiff is entitled to a tax refund for repairs to tangible personal property on the grounds that such repairs were for casualty losses exempt under the Comptroller's Rule 3.357 and 3.310. Whether the claim is barred by limitations. Whether the Comptroller improperly changed the rule on casualty losses.

Status: Answer filed.

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***Summit Photographix, Inc. v. Rylander, et al.*** Cause #GN001808  
AG Case #001323633

Sales Tax; Declaratory Judgment	Asst. AAG Assigned:	Blake Hawthorne
Filed: 06/23/00	Plaintiff's Counsel:	Mark D. Hopkins
Period: 01/01/94-12/31/96		Fields & Hopkins Austin
Amount: \$6,532,000		Hilary Thomas Kondos & Kondos Law Offices Richardson

Issue: Whether Plaintiff is a direct sales company and may be regarded as a retailer for sales made by independent retailers of business start-up kits. Whether the Comptroller's rule defining direct sales organizations violates due process. Whether §151.024 was applied retroactively. Whether the items at issue are not taxable tangible personal property. Whether the Comptroller erred in basing the assessment on the suggested retail price of all issued items. Whether penalty and interest should be waived. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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***Sysco Food Services of Houston, L.P. (f/k/a Sysco Food Service of Houston, Inc.) v. Rylander, et al.*** Cause #GN100633  
AG Case #011420734

Sales Tax; Refund & Declaratory Judgment	Asst. AAG Assigned:	Christopher Jackson
Filed: 03/01/01	Plaintiff's Counsel:	Judy M. Cunningham
Period: 01/01/94-12/31/96		Austin
Amount: \$196,492.74		

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing. Whether equipment is exempt for the same reason.

Status: Discovery in progress.

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***TCCT Real Estate, Inc. v. Rylander, et al.*** Cause #99-11647

AG Case #991219239

Sales Tax; Protest	Asst. AAG Assigned:	Blake Hawthorne
Declaratory Judgment		
Filed: 10/06/99	Plaintiff's Counsel:	David Cowling
Period: 10/01/91-		Robert Lochridge
03/31/93		Jones, Day, Reavis &
Amount: \$146,484.05		Pogue
		Dallas

Issue: Whether Plaintiff sold electricity for commercial use when it obtained electrical service under a management agreement for another company which used the electricity in manufacturing or processing. Whether the exemption for electricity used in manufacturing requires the purchaser of electricity to be the user. Whether Plaintiff can be held as a seller of electricity in violation of the TPURA. Whether Plaintiff's right to equal and uniform taxation has been violated. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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***TCCT Real Estate, Inc. as Successor to TCC Austin Industrial Overhead v. Rylander, et al.*** Cause #99-11648

AG Case #99-1219221

Sales Tax; Protest	Asst. AAG Assigned:	Blake Hawthorne
Declaratory Judgment		
Filed: 10/05/99	Plaintiff's Counsel:	David Cowling
Period: 07/01/89-		Robert Lochridge
12/31/91		Jones, Day, Reavis &
Amount: \$479,719.44		Pogue
		Dallas

Issue: Whether Plaintiff sold electricity for commercial use when it obtained electrical service under a management agreement for another company which used the electricity in manufacturing or processing. Whether the exemption for electricity used in manufacturing requires the purchaser of electricity to be the user. Whether Plaintiff can be held as a seller of electricity in violation of the TPURA. Whether Plaintiff's right to equal and uniform taxation has been violated. Plaintiff also seeks attorneys' fees.

Status: Discovery in progress.

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***TDI-Halter, Inc. v. Rylander, et al.*** Cause #GN100339  
AG Case #011409653

Sales Tax; Refund Filed: 02/01/01 Period: 01/01/93- 06/30/96 Amount: \$475,000	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  Mark W. Eidman Ray Langenberg Eric Hagenswold Scott, Douglass & McConnico Austin
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Issue: Whether conversion of drilling rigs to self-propelled, deep water rigs is manufacturing under the statute and Comptroller rules. Whether dredging is non-taxable maintenance of real property. Alternatively, whether interest should be waived.

Status: Answer filed.

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***Telecable Associates, Inc.; Teleservice Corp. of America; Texas Telecable, Inc.; TCA Cable of Amarillo, Inc.; and Texas Community Antennas, Inc. v. Rylander, et al.*** Cause #GN100705  
AG Case #011422482

Sales Tax; Refund Filed: 03/07/01 Period: 03/01/93- 12/31/96 Amount: \$400,000	Asst. AAG Assigned:  Plaintiff's Counsel:	Scott Simmons  Mark W. Eidman Ray Langenberg Scott, Douglass & McConnico Austin
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Issue: Whether cable equipment on the customer's premises qualifies for the sale for resale exemption for property used to provide a taxable service.

Status: Discovery in progress.

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***Tennessee Gas Pipeline Co. v. Sharp, et al.*** Cause #98-09521

#03-02-00029-CV

AG Case #98-1022296

Sales Tax; Refund

Filed: 08/25/98

Period: 01/01/94-

04/03/96

Amount: \$85,430

Asst. AAG Assigned:

Christopher Jackson

Plaintiff's Counsel:

Ron Patterson

Kliwer, Breen, Garaton,

Patterson & Malone, Inc.

San Antonio

Issue: Plaintiff contends that because it operates a common-carrier pipeline and is a certificated or licensed carrier of property it may avoid sales tax on repair, remodeling, and maintenance services purchased in connection with the maintenance and repair of aircraft Plaintiff owns and uses in operating its common-carrier pipeline.

Status: Summary Judgment granted in Comptroller's favor 10/04/01. Plaintiff filed Motion for New Trial 11/05/01. Plaintiff appealed. Third Court of Appeals affirmed District Court's decision on 06/13/02. Appellant filed Motion for Rehearing 06/28/02. Motion for Rehearing denied 07/26/02. Tennessee Gas Petition for Review to Tex. Supreme Court filed 09/10/02. Response filed 12/11/02. Petition for Review denied 02/13/03.

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***Texaco, Inc. v. Rylander, et al.*** Cause #GN201543

AG Case #021613625

Sales Tax; Refund

Filed: 05/10/02

Period: 05/01/87-

12/31/90

Amount: \$157,090.20

Asst. AAG Assigned:

Scott Simmons

Plaintiff's Counsel:

Mark W. Eidman

Ray Langenberg

Doug Sigel

Scott, Douglass &

McConnico

Austin

Issue: Plaintiff claims that interest should be offset or waived for a period before a refund was made to a subsidiary.

Status: Answer filed.

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***Texas Gulf, Inc. v. Bullock, et al.*** Cause #485,228

AG Case #90-311185

Sales Tax; Refund

Asst. AAG Assigned:

Jana Kinkade

Filed: 06/05/90

Period: 01/01/85 -

Plaintiff's Counsel:

Ira A. Lipstet

06/30/88

Jenkins & Gilchrist

Amount: \$294,000

Austin

Issue: Are pipes exempt as manufacturing equipment or taxable as intra plant transportation.

Status: State's plea to the jurisdiction denied. Nothing pending.

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***Texas Instruments, Inc. v. Rylander, et al.*** Cause #GN103526

AG Case #011523420

Sales Tax; Refund &

Asst. AAG Assigned:

Jim Cloudt

Declaratory Judgment

Filed: 10/24/01

Plaintiff's Counsel:

Mark W. Eidman

Period: 07/01/87-

Ray Langenberg

12/31/90

Doug Sigel

Amount: \$27,000,000

Curtis J. Osterloh

Scott, Douglass &

McConnico

Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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***Texas Instruments, Inc. v. Rylander, et al.*** Cause #GN103527

AG Case #011523438

Sales Tax; Refund &

Asst. AAG Assigned:

Jim Cloudt

Declaratory Judgment

Filed: 10/24/01

Plaintiff's Counsel:

Mark W. Eidman

Period: 01/01/91-

Ray Langenberg

07/31/97

Doug Sigel

Amount: \$102,000,000

Curtis J. Osterloh

Scott, Douglass &

McConnico

Austin



Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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***Transcontinental Gas Pipeline Corp. v. Rylander, et al.*** Cause #99-06997  
AG Case #99-1178526

Sales Tax; Protest	Asst. AAG Assigned:	Jana Kinkade
Filed: 06/17/99		
Period: 03/93-05/95	Plaintiff's Counsel:	Ron Patterson
Amount: \$112,684.43		Kliewer, Breen, Garatoni, Patterson & Malone Austin
		Michael R. Garatoni Kliewer, Breen, Garatoni, Patterson & Malone San Antonio

Issue: Whether Plaintiff, a common carrier gas pipeline operator, may claim a sales and use tax exemption on its purchase of an airplane. Whether airplane repair and replacement parts are exempt.

Status: Answer filed.

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***USA Waste Services of Houston, Inc. v. Rylander, et al.*** Cause #GN003453  
AG Case #001388065

Sales Tax; Protest	Asst. AAG Assigned:	Scott Simmons
Filed: 12/01/00		
Period: 01/01/94- 03/31/97	Plaintiff's Counsel:	Mark W. Eidman
Amount: \$14,016.28		Ray Langenberg Eric Hagenswold Scott, Douglass & McConnico Austin

Issue: Whether steam cleaning done for Plaintiff's customers by a third party is a sale for resale as an integral part of Plaintiff's taxable waste removal services.

Status: Motion for Summary Judgment hearing set 05/22/03.

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***Union Carbide Corp. v. Rylander, et al.*** Cause #GN000580

AG Case #001261452

Sales Tax; Protest

Filed: 01/13/00

Period: 01/01/89-  
12/31/92

Amount: \$575,857.40

Asst. AAG Assigned:

Plaintiff's Counsel:

Steve Rodriguez

Mark W. Eidman  
Ray Langenberg  
Curtis Osterloh  
Scott, Douglass &  
McConnico  
Austin

Issue: Whether Plaintiff is entitled to an exemption on labor charges for installing floating roofs on tanks at its chemical plant because: (1) the roofs are exempt pollution control equipment, (2) the labor was for non-taxable new construction, or (3) the labor was for remodeling of tangible personal property.

Status: Settlement negotiations pending.

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***United Services Automobile Association & USAA Life Insurance Co. v. Rylander, et al.*** Cause #GN103414

#03-02-00747-CV

AG Case #011509643

Sales Tax; Refund

Filed: 10/16/01

Period: 02/01/91-  
12/31/99

Amount: \$200,000,000+

Asst. AAG Assigned:

Plaintiff's Counsel:

Gene Storie

Mark W. Eidman  
Ray Langenberg  
Scott, Douglass &  
McConnico  
Austin

Issue: Whether plaintiffs are exempt from sales taxes because of Tex. Ins. Code arts. 4.10 and 4.11.

Status: Defendants' plea to the jurisdiction set 05/01/02. Summary Judgment for Defendants granted 05/13/02. Plaintiffs filed motion for new trial to extend deadline for appeal. Notice of Appeal filed. USAA's brief due 04/07/03.

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***Val-Pak Franchise Operations, Inc. dba Valpak of Houston v. Strayhorn, et al.***

Cause #GN300267

AG Case #031746142

Sales Tax; Protest &  
Refund

Filed: 01/28/03

Period: 04/01/95-  
12/31/98

Amount: \$734,112.10

Asst. AAG Assigned:

Jana Kinkade

Plaintiff's Counsel:

R. James George, Jr.  
James A. Hemphill  
George & Donaldson,  
LLP  
Austin

Issue: Whether Plaintiff sells non-taxable advertising services. Whether Plaintiff purchases non-taxable proprietary information services. Whether marketing fees are non-taxable membership dues.

Status: Answer filed.

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***West Texas Pizza, Limited Partnership v. Sharp, et al.*** Cause #96-11751

AG Case #96-611633

Sales Tax; Protest

Filed: 09/27/96

Period: 06/01/88-  
06/30/92

Amount: \$35,247

Asst. AAG Assigned:

Steve Rodriguez

Plaintiff's Counsel:

Richard L. Rothfelder  
Milissa M. Magee  
Kirkendall, Isgur &  
Rothfelder  
Houston

Issue: Whether prizes obtained by collecting tickets from amusement machines in a restaurant are "purchased" by the customer as part of the price of the food.

Status: Discovery in progress.

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***Westar Hotels, Inc. v. Sharp, et al.*** Cause #97-06182

AG Case #97-743945

Sales Tax; Refund

Filed: 05/23/97

Period: 11/01/90-  
07/31/94

Amount: \$73,827

Asst. AAG Assigned:

Steve Rodriguez

Plaintiff's Counsel:

Christopher J. Tome  
Austin

Issue: Whether Plaintiff owes tax on electricity used in its hotels.

Status: Discovery in progress.

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***World Fitness Centers, Inc. v. Rylander, et al.*** Cause #GN201795

AG Case #021626239

Sales Tax; Refund Filed: 05/30/02 Period: 09/01/94- 05/31/98 Amount: \$273,005.56	Asst. AAG Assigned:  Plaintiff's Counsel:	Scott Simmons  Ray Bonilla Ray, Wood & Bonilla Austin
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Issue: Whether plaintiff owes sales tax on the discount and reserve amounts of its factored contracts when plaintiff is a cash-basis taxpayer.

Status: Answer filed.

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***Zale Delaware, Inc. v. Rylander, et al.*** Cause #GN202030

AG Case #021640669

Sales Tax; Refund Filed: 06/24/02 Period: 08/01/92- 02/28/97 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  Mark W. Eidman Ray Langenberg Scott, Douglass & McConnico Austin
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Issue: Whether Plaintiff is liable for tax on items temporarily stored in Texas. Whether tax on services purchased by Plaintiff should be reduced to reflect the out-of-state benefit of those services. Whether Plaintiff should get a refund or credit for tax paid on inventory. Whether the Comptroller should be barred from off-setting debts in the period between the filing of Plaintiff's bankruptcy petition and the confirmation of its reorganization plan.

Status: Answer filed.

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# Insurance Tax

## ***Allianz Underwriters Insurance Co. v. Rylander, et al.*** Cause #GN000663

AG Case #001280114

Insurance Premium Tax; Protest, Injunction & Declaratory Judgment Filed: 03/02/00 Period: 01/01/90- 12/31/95 Amount: \$365,506.54	Asst. AAG Assigned:  Plaintiff's Counsel:	Steve Rodriguez  Stephen L. Phillips Brian C. Newby Julie K. Lane Cantey & Hanger, Roan & Autrey Austin
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Issue: Whether Plaintiff, an eligible surplus lines insurer, owes tax for unauthorized insurance. Whether tax should have been collected from the surplus lines agent or from the insured. Whether the Comptroller's assessment is contrary to the McCarran-Ferguson Act and constitutional due process. Whether the Comptroller has authority to assess taxes due before 09/01/93. Whether the Comptroller's rule on penalty and interest is arbitrary and capricious. Plaintiff also seeks attorneys' fees.

Status: Discovery in progress. Settlement negotiations pending. Motion to Retain filed pursuant to Dismissal for Want of Prosecution.

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## ***American Bankers Insurance Co. of Florida, et al. v. Ann Richards, et al.*** Cause #396,975

AG Case #86-1483

Gross Premium Tax; Protest & Declaratory Judgment Filed: 05/08/86 Period: 1985-1988 Amount: \$1,745,569	Asst. AAG Assigned:  Plaintiff's Counsel:	Steve Rodriguez  Fred B. Werkenthin Jackson & Walker Austin
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Issue: Whether Tex. Ins. Code art. 4.10 unconstitutionally discriminates against foreign property and casualty companies by basing the premium tax rate on their percentage of Texas investments (equal protection). (Pleadings refer to art. 4.10, but protest letters refer to arts. 4.11 and 21.46.) Also seeks recovery and attorneys' fees pursuant to 42 U.S.C. §1983.

Status: Inactive.

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***American International Specialty Lines Insurance Co. v. Rylander, et al.*** Cause #GN002666  
AG Case #001351998

Insurance Premium Tax; Protest & Declaratory Judgment Filed: 09/08/00 Period: 1995 Amount: \$362,975.97	Asst. AAG Assigned:  Plaintiff's Counsel:	Steve Rodriguez  Anthony Icenogle Joseph C. Boggins DeLeon & Boggins Austin
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Issue: Whether an authorized surplus lines insurer is required to pay unauthorized insurance tax when the Comptroller is unable to verify payment of tax by the agent. Whether the Comptroller wrongfully relied on another hearings decision as precedent. Plaintiff also seeks injunctive and declaratory relief and attorneys' fees.

Status: Discovery in progress. Consolidated with *Lexington Insurance Co. and Landmark Insurance Co. v. Rylander, et al.* Summary Judgment motions set 08/01/02. Awaiting judgment.`

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***Dorinco Insurance Co. v. Rylander, et al.*** Cause #GN203924  
AG Case #021700380

Gross Premium Insurance and Maintenance Tax Tax; Protest Filed: 10/29/02 Period: 1991-1997 Amount: \$1,411,505.77	Asst. AAG Assigned:  Plaintiff's Counsel:	Gene Storie  Mark W. Eidman Ray Langenberg Scott, Douglass & McConnico Austin
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Issue: Whether tax was improperly assessed because Texas has no nexus with plaintiff or with the transactions in issue. Whether tax was also improperly assessed on premiums that did not cover Texas risks.

Status: Discovery in progress.

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***Fireman's Fund Insurance Co. of Ohio v. Rylander, et al.*** Cause #GN101899

AG Case #011464476

Insurance Premium Tax; Protest & Declaratory Judgment Filed: 06/20/01 Period: 1992-1998 Amount: \$439,074.12	Asst. AAG Assigned:  Plaintiff's Counsel:	Steve Rodriguez  Stephen L. Phillips Brian C. Newby Julie K. Lane Cantey & Hanger, Roan & Autry Austin
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Issue: Whether Plaintiff, an authorized surplus lines insurer, is liable for unauthorized insurance premiums tax. Whether the Comptroller lacks authority to determine that Plaintiff is an unauthorized insurer, and whether the Texas Department of Insurance is required to make that determination. Whether the Comptroller engaged in selective and improper enforcement. Whether the assessment violates Due Process and the McCarran-Ferguson Act. Alternatively, whether penalty should be waived. Plaintiff also seeks injunctive relief and attorneys' fees.

Status: Answer filed.

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***Lexington Insurance Co., Landmark Insurance Co. v. Rylander, et al.*** Cause

#GN100569

AG Case #011417896

Insurance Premium Tax; Protest & Declaratory Judgment Filed: 02/22/01 Period: 1992-1995 Amount: \$1,596,196.63 \$36,174.92	Asst. AAG Assigned:  Plaintiff's Counsel:	Steve Rodriguez  Anthony Icenogle Joseph C. Boggins De Leon & Boggins Austin
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Issue: Whether an authorized surplus lines insurer is required to pay unauthorized insurance tax when the Comptroller is unable to verify payment of tax by the agent. Whether the Comptroller wrongfully relied on another hearings decision as precedent. Plaintiff also seeks injunctive and declaratory relief and attorneys' fees.

Status: Discovery in progress. Summary Judgment motions held 08/01/02. Awaiting judgment.

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**Metropolitan Life Insurance Co., et al. v. A.W. Pogue, et al.** Cause #484,745  
AG Case #90-304512

Gross Premium Tax; Protest	Asst. AAG Assigned:	Gene Storie
Filed: 05/24/90	Plaintiff's Counsel:	Fred B. Werkenthin
Period: 1985-1986		Steve Moore
1989-1992		Breck Harrison
Amount: \$1,848,606		Jackson & Walker Austin

Issue: Whether insurance taxes are owed by insurance companies on dividends applied to paid-up additions and renewal premiums.

Status: 9th Amended Petition filed. Settlement discussed, and partial settlement agreed to. Final judgment signed on paid-up additions issue. Renewal premium issue severed and retained on docket. Plaintiffs have made settlement offer on remainder of case.

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**Metropolitan Life Insurance Co., et al. v. A.W. Pogue, et al.** Cause #484,796  
AG Case #90-304503

Maintenance Tax; Protest	Asst. AAG Assigned:	Gene Storie
Filed: 05-23-90		
Period: 1989-1991	Plaintiff's Counsel:	Fred B. Werkenthin
Amount: \$1,616,497		Jackson & Walker Austin

Issue: Whether Tex. Ins. Code art. 21.07-6 is preempted by ERISA.

Status: One Plaintiff has submitted documentation supporting a refund. Case will be concluded in accordance with *NGS v. Barnes*, 998 F.2d 296 (5th Cir. 1993). Severance and final judgment entered for Metropolitan. Awaiting documentation for other Plaintiffs.

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**Philadelphia Life Insurance Co. v. Rylander, et al.** Cause #GN101330  
AG Case #011439866

Insurance Premium & Gross Premium Tax; Protest	Asst. AAG Assigned:	Scott Simmons
Filed: 05/02/01	Plaintiff's Counsel:	Kevin F. Lee
Period: 1992-1996		Michael W. Jones
Amount: \$466,381.65		Thompson, Coe, Cousins & Irons Austin

Issue: Whether certain transactions called "internal rollover" by Plaintiffs, consisting of substituting one insurance policy for a prior policy and transferring funds, result in gross premiums subject to tax.

Status: Answer filed.

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***Security National Insurance Co. v. Rylander, et al.*** Cause #GN001503

AG Case #001310820

Insurance Premium Tax;  
Protest

Filed: 05/23/00

Period: 1995-1998

Amount: \$1,226,220.50

Asst. AAG Assigned:

Plaintiff's Counsel:

Natalie Foerster

Jay A. Thompson  
Thompson, Coe, Cousins  
& Irons  
Austin

Barry K. Bishop  
Clark, Thomas & Winters  
Austin

Issue: Whether daily negative bank account balances should be adjusted to \$0 to compute the proper percentage of Texas investments for gross premiums tax.

Status: Discovery in progress. Motion for Summary Judgment filed by Plaintiff. Settlement discussions in progress.

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***Southwestern Life Insurance Co. v. Sharp, et al.*** Cause #98-11945

AG Case #98-1065840

Gross Premium  
Maintenance Tax; Protest

Filed: 10/22/98

Period: 01/01/92-  
12/31/95

Amount: \$392,737

Asst. AAG Assigned:

Plaintiff's Counsel:

Gene Storie

L.G. Skip Smith  
Clark, Thomas & Winters  
Austin

Issue: Whether certain transactions called "internal rollover" by Plaintiffs, consisting of substituting one insurance policy for a prior policy and transferring funds, result in gross premiums subject to tax.

Status: Answer filed. Will be determined as for *All American Life Insurance Co, et al. v. Sharp, et al.*

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**Southwestern Life Insurance Co. v. Rylander, et al.** Cause #GN000875

AG Case #001288869

Gross Premium	Asst. AAG Assigned:	Blake Hawthorne
Maintenance Tax;		
Protest & Refund	Plaintiff's Counsel:	L.G. Skip Smith
Filed: 03/24/00		David H. Gilliland
Period: 01/01/96-		Clark, Thomas & Winters
12/31/98		Austin
Amount: \$384,446.75		

Issue: Whether certain transactions called "internal rollover" by Plaintiffs, consisting of substituting one insurance policy for a prior policy and transferring funds, result in gross premiums subject to tax.

Status: To be settled in accordance with *All American Life Insurance v. Rylander, et al.*

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**St. Paul Surplus Lines Co. v. Rylander, et al.** Cause #GN102788

AG Case #011490877

Insurance Premium Tax;	Asst. AAG Assigned:	Steve Rodriguez
Refund, Protest &		
Declaratory Judgment	Plaintiff's Counsel:	Michael W. Jones
Filed: 08/24/01		Kevin F. Lee
Period: 01/01/95-		Austin
12/31/98		
Amount: \$163,021.27		Richard S. Geiger
		Dallas
		Thompson, Coe, Cousins
		& Irons

Issue: Whether Plaintiff, an eligible surplus lines insurer, is liable for unauthorized insurance tax. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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**United American Insurance Co. v. Rylander, et al.** Cause #99-06836

#03-02-00722-CV

AG Case #99-1176355

Gross Premium Tax;  
Protest & Declaratory  
Judgment

Filed: 06/15/99

Period: 1990-1996

Amount: \$1,262,878.98

\$7,487.00

Asst. AAG Assigned:

Plaintiff's Counsel:

Christine Monzingo

Sam R. Perry  
Sneed, Vine & Perry  
Austin

Issue: Whether Plaintiff's investment in a limited partnership which held Texas mineral interests qualifies as a Texas investment for purposes of reducing Plaintiff's gross premiums tax rate. Whether investments in limited partnerships should be treated the same as investments in corporations. Whether Plaintiff was denied equal protection under the federal or state constitutions. Plaintiff also asks for attorneys' fees.

Status: District court granted Defendants' Motion for Summary Judgment and denied Plaintiff's judgment 10/09/02. Appellant's brief filed 01/22/03. Appellees' brief filed 02/26/03.

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**Universe Life Insurance Co. v. State of Texas** Cause #97-05106

AG Case #97-727302

Insurance Tax; Protest  
Filed: 04/29/97

Period: 1993

Amount: \$56,958

Asst. AAG Assigned:

Plaintiff's Counsel:

Gene Storie

Larry Parks  
Long, Burner, Parks &  
Sealey  
Austin

Issue: Whether plaintiff should be given credit against tax due for examination fees paid to the state in connection with a market conduct examination report ordered by the Texas Department of Insurance. Plaintiff also asks for penalty and interest waiver.

Status: Cross-motions for summary judgment heard 11/12/97. Summary judgment granted for Plaintiff. State has appealed. Case submitted without oral argument 07/06/98. Affirmed in part, reversed and remanded in part 03/11/99. State's motion for rehearing denied. Petition for review filed 06/01/99. Briefs on merits requested by Court. State's brief filed 10/18/99. Petition denied. Case remanded to trial court.

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***Universe Life Insurance Co., The v. Cornyn, et al.*** Cause #GN002605

AG Case #001348580

Insurance Premium Tax; Refund	Asst. AAG Assigned:	Gene Storie
Filed: 09/01/00	Plaintiff's Counsel:	Larry Parks
Period: 1993 1994		Long, Burner, Parks, McClellan & Delargy
Amount: \$87,288.51 \$426,620.38		Austin

Issue: Whether plaintiff should be given credit against tax due for examination fees paid to the state in connection with a market conduct examination report ordered by the Texas Department of Insurance. Plaintiff also asks for penalty and interest waiver.

Status: Comptroller to make partial refund awarded in administrative hearing.

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***Warranty Underwriters Insurance Co. v. Rylander, et al.*** Cause #99-12271

AG Case #99-1226739

Insurance Tax; Protest & Declaratory Judgment	Asst. AAG Assigned:	Blake Hawthorne
Filed: 10/20/99	Plaintiff's Counsel:	Brewster McCracken
Period: 1993-1997 1993-1997		Raymond E. White
Amount: \$416,462.73 \$214,893.74		Daniel Micciche
		Akin, Gump, Strauss, Hauer & Feld
		Austin

Issue: Whether the Comptroller improperly included amounts not received by Plaintiff in Plaintiff's gross premiums tax base. Whether any maintenance tax is payable on Plaintiff's business of home warranty insurance. Whether the Comptroller is bound by the prior actions and determinations of the Texas Department of Insurance. Whether the assessments of tax violate due process and equal taxation. Whether penalty and interest should have been waived.

Status: Discovery in progress. Case will go to mediation. On dismissal docket. Plaintiff filed Motion to Retain. Jury trial scheduled 03/31/03.

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## Other Taxes

***Alvarado ISD v. Rylander*** Cause #GN202439

AG Case #021647623

Property Tax; Administrative Appeal Filed: 07/26/02 Period: 2001 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Ray Bonilla Randall B. Wood Ray, Wood & Bonilla Austin
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Issue: Whether the Comptroller erred by misapplying burden of proof and not properly valuing sample properties that involved creative financing.

Status: Settlement negotiations in progress.

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***Arnold, Jessamine J., Estate of, Deceased, and Jim Arnold, Jr., Independent Executor v. Rylander, et al.*** Cause #GN203255

AG Case #021670484

Inheritance Tax; Protest Filed: 09/09/02 Period: Amount: \$161,956	Asst. AAG Assigned:  Plaintiff's Counsel:	Steve Rodriguez  James F. Martens Christina A. Mondrik Stahl, Martens & Bernal Austin
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Issue: Whether the IRS erred in increasing the value of the estate's assets and disallowing expenses and gifts.

Status: Answer filed.

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***Bailiff, Michael W. and Sylvia S. Bailiff v. Bexar County Appraisal District, et al.***

Cause #2002-CI-147689

AG Case #021691704

Property Tax; Declaratory Judgment Filed: 10/10/02 Period: 2002 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Gene Storie  Christopher J. Weber Christopher J. Weber, L.L.C. San Antonio
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Issue: Plaintiff claims that defendants overvalued and unequally appraised his various properties in Bexar County. Plaintiff claims that Defendants failed to meet their burden of proof and also seeks declaratory judgment and attorneys' fees.

Status: Answer filed. Plaintiff will dismiss.

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***Buffalo ISD v. Rylander, et al.*** Cause #GV202348

AG Case #021647854

Property Tax; Injunction  
& Declaratory Judgment

Filed: 07/26/02

Period: 2001

Amount: \$

Asst. AAG Assigned:

Plaintiff's Counsel:

Jana Kinkade

Kirk Swinney  
Harvey M. Allen  
Javier B. Gutierrez  
McCreary, Veselka,  
Bragg & Allen  
Austin

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties.

Status: Settled.

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***Caldwell, Marcie v. Rylander*** Cause #99-13088

AG Case #99-1234329

Declaratory Judgment  
Tax; Declaratory  
Judgment

Filed: 11/08/99

Period: 1992-Present

Amount: \$

Asst. AAG Assigned:

Plaintiff's Counsel:

Christopher Jackson

Joe K. Crews  
Diane S. Jacobs  
Ivy, Crews & Elliott  
Austin

Issue: Whether county court fees collected from persons who are convicted of any criminal offense are constitutional. Plaintiff seeks class action declaratory and injunctive relief to prevent Comptroller from collecting fees. Plaintiff also seeks attorneys' fees.

Status: Discovery in progress. Plea to Jurisdiction denied 01/06/00. Trial court decision on jurisdiction affirmed by Third Court of Appeals. Plaintiff waived all rights to refund of court costs. Summary Judgment filed. Status hearings scheduled 05/03/03, 08/25/03 and 10/27/03.

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***Campbell ISD, et al. v. Comptroller*** Cause #GV2-02447

AG Case #021657903

Property Tax;  
Administrative Appeal  
Filed: 07/31/02  
Period: 2001  
Amount: \$

Asst. AAG Assigned:

Jana Kinkade

Plaintiff's Counsel:

Robert Mott  
Joseph Longoria  
Perdue, Brandon, Fielder,  
Collins & Mott  
Houston

Issue: Whether the Comptroller erred by misapplying burden of proof and not properly selecting and valuing sample properties by following the same methodology.

Status: Settlement negotiations in progress.

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***Castleberry ISD; Ennis ISD; Canyon ISD; La Porte ISD v. Comptroller*** Cause

#96-08010

AG Case #96-599817

Property Tax;  
Declaratory Judgment  
Filed: 07/11/96  
Period: 1994  
Amount: \$

Asst. AAG Assigned:

Gene Storie

Plaintiff's Counsel:

Robert Mott  
Joseph Longoria  
Perdue, Brandon, Fielder,  
Collins & Mott  
Houston

Issue: Various issues concerning the validity of the Comptroller's property value study.

Status: Answer and Special Exception filed. Inactive. Settlement reached with Canyon ISD. Only La Porte ISD is now pending. LaPorte ISD has made a settlement offer. Discovery in progress.

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***Chrysler Financial Co., L.L.C. v. Rylander, et al.*** Cause #99-13243

AG Case #99-1238189



Motor Vehicle Tax;  
Refund

Filed: 11/12/99

Period: 10/01/90-

11/30/96

Amount: \$3,405,494.49

Asst. AAG Assigned:

Jim Cloudt

Plaintiff's Counsel:

Mark W. Eidman  
Scott, Douglass &  
McConnico  
Austin

David E .Otero  
Akerman, Senterfitt &  
Eidson  
Florida

Issue: Whether Plaintiff, as assignee of installment contracts with Chrysler dealers, is entitled to a refund under the bad debt credit provision in the sales tax for taxes on motor vehicles that were not paid by defaulting vehicle purchasers. Whether there is any rational basis to distinguish between vehicle sales and other sales or between vehicle rental receipts and vehicle sales receipts for purposes of bad debt relief.

Status: Motion to Retain filed by Plaintiff. Trial scheduled for 07/14/03.

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**Cisco ISD v. Rylander, et al.** Cause #GV202346

AG Case #021647870

Property Tax;  
Administrative Appeal,  
Injunction & Declaratory  
Judgment

Filed: 07/26/02

Period: 2001

Amount: \$

Asst. AAG Assigned:

Jana Kinkade

Plaintiff's Counsel:

Kirk Swinney  
Harvey M. Allen  
Javier B. Gutierrez  
McCreary, Veselka,  
Bragg & Allen  
Austin

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties. Whether the Comptroller's certification of inaccurate values for some districts violates constitutional guarantees of efficient education and equal protection. Plaintiff also seeks attorney's fees.

Status: Agreed Judgment signed 02/04/03.

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***Cleburne ISD v. Rylander*** Cause #GN202440

AG Case #021647672

Property Tax;	Asst. AAG Assigned:	Jana Kinkade
Administrative Appeal		
Filed: 07/26/02	Plaintiff's Counsel:	Ray Bonilla
Period: 2001		Randall B. Wood
Amount: \$		Ray, Wood & Bonilla
		Austin

Issue: Whether the Comptroller erred by misapplying burden of proof and not properly valuing sample properties that involved creative financing.

Status: Settled.

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***Cockrill, Charles T. v. Comptroller of Public Accounts, et al.*** Cause #CJ-00-308

AG Case #001368513

Property Tax;	Asst. AAG Assigned:	Gene Storie
Declaratory Judgment		
Filed: 10/12/00	Plaintiff's Counsel:	Douglas L. Jackson
Period:		Vance T. Nye
Amount: \$99,425.50		Gungoll, Jackson,
		Collins, Box & Devoll
		Enid, Oklahoma

Issue: Whether the Comptroller asserts any interest in art works that were sold by a taxpayer subject to a tax lien.

Status: Comptroller disclaims interest.

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***Cooper ISD v. Comptroller*** Cause #GV202460

AG Case #021652045

Property Tax;	Asst. AAG Assigned:	Jana Kinkade
Administrative Appeal		
Filed: 08/01/02	Plaintiff's Counsel:	Randall B. Wood Ray
Period: 2001		Bonilla
Amount: \$		Ray, Wood & Bonilla
		Austin

Issue: Whether the Comptroller erred by misapplying burden of proof and not properly valuing sample properties that involved creative financing.

Status: Settlement negotiations in progress.

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***DeSoto ISD v. Comptroller of Public Accounts*** Cause #GV102073

AG Case #011474624

Property Tax; Administrative Appeal Filed: 07/27/01 Period: 2000 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Ray Bonilla Ray, Wood, Fine & Bonilla Austin
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Issue: Whether the Comptroller erred by not properly selecting and inspecting sample properties.

Status: Settlement negotiations pending.

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***Deweyville ISD v. Rylander*** Cause #GV001637

AG Case #001335355

Property Tax; Declaratory Judgment Filed: 07/14/00 Period: 1999 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  John H. Wofford Law Office of John H. Wofford Austin
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Issue: Whether the Comptroller erred by not properly selecting and inspecting sample properties. Whether the Comptroller failed to acknowledge local economic conditions, to timely provide a “clerical errors” report, and to accept additional information.

Status: Settled.

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***Eastland ISD v. Rylander, et al.*** Cause #GV202347

AG Case #021647888

Property Tax;	Asst. AAG Assigned:	Jana Kinkade
Administrative Appeal,		
Injunction & Declaratory	Plaintiff's Counsel:	Kirk Swinney
Judgment		Harvey M. Allen
Filed: 07/26/02		Javier B. Gutierrez
Period: 2001		McCreary, Veselka,
Amount: \$		Bragg & Allen
		Austin

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties. Whether the Comptroller's certification of inaccurate values for some districts violates constitutional guarantees of efficient education and equal protection. Plaintiff also seeks attorney's fees.

Status: Settled.

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***El Paso Natural Gas Co. v. Sharp*** Cause #91-6309

AG Case #91-78237

Gas Production Tax;	Asst. AAG Assigned:	Steve Rodriguez
Declaratory Judgment		
Filed: 05/06/91	Plaintiff's Counsel:	Alfred H. Ebert, Jr.
Period: 01/01/87 -		Andrews & Kurth
12/31/87		Houston
Amount: \$3,054,480.60		

Issue: Whether Comptroller should have granted Plaintiff a hearing on penalty waiver and related issues.

Status: State's Plea in Abatement granted pending outcome of administrative hearing on audit liability. Negotiations pending.

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***Fort Davis ISD v. Comptroller*** Cause #GV001764

AG Case #001339852

Property Tax;	Asst. AAG Assigned:	Jana Kinkade
Declaratory Judgment		
Filed: 07/28/00	Plaintiff's Counsel:	James R. Evans, Jr.
Period: 1999		Linebarger Heard Goggan
Amount: \$		Blair Graham Pena &
		Sampson
		Austin

Issue: Whether the Comptroller erred by not properly selecting and inspecting sample properties. Whether the Comptroller failed to acknowledge local economic conditions, to timely provide a “clerical errors” report, and to accept additional information.

Status: Settled.

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**Fort Worth PR's, Inc. v. Rylander, et al.** Cause #GN200711

AG Case #021573480

Mixed Beverage Gross  
Receipts Tax; Protest &  
Declaratory Judgment  
Filed: 03/04/02  
Period: 03/01/99-  
06/30/99  
Amount: \$36,177.36

Asst. AAG Assigned:

Jana Kinkade

Plaintiff's Counsel:

John L. Gamboa  
Acuff, Gamboa & White  
Fort Worth

Issue: Whether the Comptroller used a non-representative sample to determine plaintiff's tax liability. Whether depletion and error rates were calculated correctly.

Status: Answer filed.

---

**Gainesville ISD v. Comptroller of Public Accounts** Cause #GV102071

AG Case #011474574

Property Tax;  
Administrative Appeal  
Filed: 07/27/01  
Period: 2000  
Amount: \$

Asst. AAG Assigned:

Jana Kinkade

Plaintiff's Counsel:

Ray Bonilla  
Ray, Wood, Fine &  
Bonilla  
Austin

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties that involved creative financing.

Status: Settled.

---

**Gainesville ISD v. Comptroller** Cause #GV202463

AG Case #021652003

Property Tax;	Asst. AAG Assigned:	Jana Kinkade
Administrative Appeal		
Filed: 08/01/02	Plaintiff's Counsel:	Randall B. Wood
Period: 2001		Ray Bonilla
Amount: \$		Ray, Wood & Bonilla
		Austin

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties that involved creative financing.

Status: Settlement negotiations pending.

---

**Gard, L.V. v. Bandera County Appraisal District; Bandera County Chief Appraiser, R. Elaine Chaney; Bandera County Appraisal Review Board, Paul Goodnight, Chairman; Rylander; and Bandera County Assessor-Collector, Mae Vion Meyer** Cause #8494-02

AG Case #021684444

Property Tax;	Asst. AAG Assigned:	Gene Storie
Declaratory Judgment		
Filed: 08/29/02	Plaintiff's Counsel:	Christopher J. Weber
Period: 2001		Christopher J. Weber,
Amount: \$		L.L.C.
		San Antonio

Issue: Plaintiff claims that defendants overvalued and unequally appraised his various properties in Bandera County. Plaintiff claims that Defendants failed to meet their burden of proof and also seeks declaratory judgment and attorneys' fees.

Status: Answer filed. Plaintiff has dismissed suit against Comptroller.

---

**Lake Austin Spa Investors, Ltd. v. Rylander, et al.** Cause #GN203899

AG Case #021703913

Hotel Occupancy Tax; Protest, Injunction & Declaratory Judgment Filed: 10/28/02 Period: 03/01/97- 11/30/00 12/01/00-03/31/02 Amount: \$193,629.45 \$59,232.72	Asst. AAG Assigned:  Plaintiff's Counsel:	Scott Simmons  Kirk R. Manning Stephen L. Phillips Julie K. Lane Cantey & Hanger Austin
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Issue: Whether Plaintiff's service charges are subject to the hotel tax. Whether the charges are gratuities under the Comptroller's rule. Plaintiff also seeks injunctive relief and attorneys' fees.

Status: Discovery in progress.

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***MFC Finance Co. of Texas v. Rylander, et al.*** Cause #GN002653  
AG Case #001352632

Motor Vehicle Sales Tax; Refund Filed: 09/07/00 Period: 01/01/96- 12/31/98 Amount: \$5,533,079.80	Asst. AAG Assigned:  Plaintiff's Counsel:	Jim Cloudt  Mark W. Eidman Ray Langenberg Scott, Douglass & McConnico Austin
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Issue: Whether Plaintiff is entitled to tax credit and refund as provided under the sales tax bad debt statute for motor vehicle taxes on installment sales where the purchaser defaulted. Whether the refusal to allow a refund violates equal taxation because there is no rational basis to treat installment sellers of vehicles differently than vehicle renters and other retailers.

Status: Answer filed.

---

***MFN Financial Corp. v. Rylander, et al.*** Cause #GN002650  
AG Case #001352129

Motor Vehicle Sales Tax; Refund Filed: 09/07/00 Period: 01/01/96- 12/31/98 Amount: \$5,533,079.80	Asst. AAG Assigned:  Plaintiff's Counsel:	Jim Cloudt  Mark W. Eidman Ray Langenberg Scott, Douglass & McConnico
--	---	--

Issue: Whether Plaintiff is entitled to tax credit and refund as provided under the sales tax bad debt statute for motor vehicle taxes on installment sales where the purchaser defaulted. Whether the refusal to allow a refund violates equal taxation because there is no rational basis to treat installment sellers of vehicles differently than vehicle renters and other retailers.

Status: Answer filed.

---

***McLane Co., Inc. and McLane Foodservice-Lubbock, Inc. v. Rylander, et al.***

Cause #GN104253

AG Case #021547393

Protest Tax; Protest, Injunction & Declaratory Judgment Filed: Period: Amount: \$1,173.83 & \$3,690.00	Asst. AAG Assigned:  Plaintiff's Counsel:	Gene Storie  Gilbert J. Bernal, Jr. Kirk R. Lyda David J. Sewell Stahl, Martens & Bernal Austin
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Issue: Whether the Comptroller must accept a letter of credit as security for Plaintiff's participation in the cigarette tax trust fund.

Status: Discovery in progress. Settlement discussions in progress. Trial set 08/18/03.

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***Mineola ISD v. Comptroller of Public Accounts*** Cause #GV102070

AG Case #011474616

Property Tax; Administrative Appeal Filed: 07/27/01 Period: 2000 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Ray Bonilla Ray, Wood, Fine & Bonilla Austin
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Issue: Whether the Comptroller erred by not properly valuing commercial personal properties.

Status: Settlement negotiations in progress.

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***Mirage Real Estate, Inc., et al. v. Richard Durbin, et al.*** Cause #92-16485

AG Case #92-190294

Alcoholic Beverage	Asst. AAG Assigned:	Blake Hawthorne
Gross Receipts Tax;		
Declaratory Judgment	Plaintiff's Counsel:	Jim Mattox
Filed: 12/03/92		Lowell Lasley
Period:		Michael D. Mosher
Amount: \$		

Issue: Whether the TABC and Comptroller were allowed to use inventory depletions analysis to determine amount of gross receipts tax owed. Plaintiffs seek class certification.

Status: Answer filed. Inactive.

---

***New Crew Quarters 2, Inc. v. Rylander, et al.*** Cause #GN002606

AG Case #001352111

Mixed Beverage Gross	Asst. AAG Assigned:	Blake Hawthorne
Receipts Tax;		
Declaratory Judgment	Plaintiff's Counsel:	Mark W. Eidman
Filed: 09/01/00		Ray Langenberg
Period: 09/01/93-		Curtis J. Osterloh
02/28/97		Scott, Douglass &
Amount: \$216,325.07		McConnico

Issue: Whether audit incorrectly assessed mixed beverage tax by failing to consider changes in inventory and periods of business closures. Whether 50% fraud penalty was incorrectly assessed where some of the Plaintiff's books and records were destroyed by fire. Plaintiff also seeks attorneys' fees.

Status: Discovery in progress. Plaintiff has submitted several settlement offers. Collection action to be taken by Comptroller. Plaintiff filed Chapter 7 bankruptcy. Bankruptcy stay in effect.

---

***Onalaska ISD v. Comptroller*** Cause #GV202464

AG Case #021652029

Property Tax;	Asst. AAG Assigned:	Jana Kinkade
Administrative Appeal		
Filed: 08/01/02	Plaintiff's Counsel:	Ray Bonilla
Period: 2001		Ray, Wood & Bonilla
Amount: \$		Austin

Issue: Whether the Comptroller misapplied a local modifier in its valuation techniques of local property.

Status: Settlement negotiations in progress.

---

***P.W. Jones Oil Co., Inc. v. Sharp, et al.*** Cause #96-02941  
AG Case #96-485280

Diesel Fuel Tax; Injunction Filed: 03/12/96 Period: 1989-1993 Amount: \$176,959	Asst. AAG Assigned:  Plaintiff's Counsel:	Steve Rodriguez  John A. Leonard Russell & Leonard Wichita Falls
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Issue: Whether Plaintiff can rebut the presumption that the sale of diesel fuel is taxable. Plaintiff also asks for an injunction to stop collection action.

Status: Inactive.

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***Petro Express Management, L.L.C. v. Rylander, et al.*** Cause #GN204123  
AG Case #021705918

Fuels Tax; Injunction and Declaratory Judgment Filed: 11/14/02 Period: 2002 Amount: \$450,000	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  Percy L. "Wayne" Isgitt C. Zan Turcotte Law Offices of Perry L. "Wayne" Isgitt, P.C. Houston
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Issue: Whether the Comptroller's collection actions are arbitrary, contrary to statute, and unconstitutional. Plaintiff seeks injunctive relief and a return of seized property.

Status: Temporary Restraining Order denied.

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***Presidio ISD v. Comptroller*** Cause #GV202465  
AG Case #021652011

Property Tax; Administrative Appeal Filed: 08/01/02 Period: 2001 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Ray Bonilla Ray, Wood & Bonilla Austin
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Issue: Whether the Comptroller erred by not properly valuing commercial personal properties.

Status: Settled.

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***Preston Motors by George L. Preston, Owner v. Sharp, et al.*** Cause #91-11987  
AG Case #91-133170

Motor Vehicle Tax; Protest	Asst. AAG Assigned:	Jim Cloudt
Filed: 08/26/91	Plaintiff's Counsel:	George L. Preston
Period: 12/01/86 - 09/30/89		Paris
Amount: \$21,796		

Issue: Whether motor vehicle tax should fall on dealer/seller rather than the purchaser under §152.044. Related constitutional issues.

Status: Inactive.

---

***Ranger Fuels & Maintenance , L.L.C. v. Rylander, et al.*** Cause #GN204124  
AG Case #021705900

Fuels Tax; Declaratory Judgment & Injunction	Asst. AAG Assigned:	Blake Hawthorne
Filed: 11/14/02	Plaintiff's Counsel:	Percy L. "Wayne" Isgitt
Period:		C. Zan Turcotte
Amount: \$115,000.00		Law Offices of Perry L. "Wayne" Isgitt, P.C. Houston

Issue: Whether fuels tax is actually owed by an unrelated company. Whether the Comptroller abused its discretion and violated Plaintiff's constitutional rights. Plaintiff seeks injunctive and declaratory relief.

Status: Temporary Restraining Order denied.

---

**Robinson, Barbara Cooke, Estate of v. Strayhorn, et al.** Cause #GN300338

AG Case #

Declaratory Judgment	Asst. AAG Assigned:	Christopher Jackson
Tax; Declaratory		
Judgment	Plaintiff's Counsel:	Arne M. Ray
Filed: 02/03/03		Houston
Period: 1990		
Amount: \$		

Issue: Whether the Comptroller's lien should be nullified as expired or invalid on its face.

Status: Answer filed.

---

**Rosebud-Lott ISD v. Comptroller** Cause #GV202462

AG Case #021651997

Property Tax;	Asst. AAG Assigned:	Christopher Jackson
Administrative Appeal		
Filed: 08/01/02	Plaintiff's Counsel:	Ray Bonilla
Period: 2001		Ray, Wood & Bonilla
Amount: \$		Austin

Issue: Whether the Comptroller erred by not properly valuing sample properties.

Status: Settlement negotiations in progress.

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**Shelton, James M., Estate of, Deceased, and Carroll A. Maxon, Independent Co-Executor v. Rylander, et al.** Cause #GN104094

AG Case #021542261

Inheritance Tax; Protest	Asst. AAG Assigned:	Jana Kinkade
& Refund		
Filed: 12/14/01	Plaintiff's Counsel:	James F. Martens
Period:		Jessica Scott
Amount: \$1,616,018		Stahl, Martens & Bernal
		Austin

Issue: Whether the IRS and Comptroller failed to give proper credit against the estate value for a pending lawsuit and administrative expenses.

Status: Answer filed.

---

**Southside ISD v. Comptroller of Public Accounts** Cause #GV202350

AG Case #021651906

Property Tax;  
Administrative Appeal  
Filed: 07/26/02  
Period: 2001  
Amount: \$

Asst. AAG Assigned:

Jana Kinkade

Plaintiff's Counsel:

R. Lawrence Macon  
Donna K. Schneider  
Akin, Gump, Strauss,  
Hauer & Feld  
San Antonio

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties. Whether the Comptroller failed to consider local modifiers, sales and market information. Whether utility property appraisal includes intangible value. Whether Southside ISD should be treated like McLennan County districts.

Status: Settlement negotiations in progress.

---

**Troy ISD v. Rylander, et al.** Cause #GV202345

AG Case #021648480

Property Tax;  
Administrative Appeal,  
Injunction & Declaratory  
Judgment  
Filed: 07/26/02  
Period: 2001  
Amount: \$

Asst. AAG Assigned:

Jana Kinkade

Plaintiff's Counsel:

Kirk Swinney  
Harvey M. Allen  
Javier B. Gutierrez  
McCreary, Veselka,  
Bragg & Allen  
Austin

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties. Whether the Comptroller's certification of inaccurate values for some districts violates constitutional guarantees of efficient education and equal protection. Plaintiff also seeks attorney's fees.

Status: Settled.

---

***Uvalde ISD v. Comptroller of Public Accounts*** Cause #GV102072

AG Case #011474582

Property Tax;	Asst. AAG Assigned:	Jana Kinkade
Administrative Appeal		
Filed: 07/27/01	Plaintiff's Counsel:	Ray Bonilla
Period: 2000		Ray, Wood, Fine &
Amount: \$		Bonilla
		Austin

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties that involved creative financing.

Status: Settled.

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***Valentine ISD v. Comptroller*** Cause #GV001763

AG Case #001339860

Property Tax;	Asst. AAG Assigned:	Jana Kinkade
Administrative Appeal		
Filed: 07/28/00	Plaintiff's Counsel:	James R. Evans, Jr.
Period: 1999		Linebarger Heard Goggan
Amount: \$		Blair Graham Pena &
		Sampson
		Austin

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties. Whether the Comptroller failed to consider local modifiers, sales, and market information.

Status: Settled.

---

***West Orange-Cove CISD, Coppell ISD, La Porte ISD, Port Neches-Groves ISD v. Rylander, et al.*** Cause #GV-100528

AG Case #011433026

Property Tax;  
Declaratory Judgment  
Filed: 04/09/01  
Period:  
Amount: \$

Asst. AAG Assigned:

Gene Storie

Plaintiff's Counsel:

George W. Bramblett,  
Jr.  
Carrie L. Huff  
Haynes and Boone  
Dallas

W. Wade Porter  
Haynes and Boone  
Austin

Issue: Whether the \$1.50 cap on the school districts' maintenance and operations taxes creates an unconstitutional state property tax. Plaintiffs also seek attorneys' fees.

Status: Plea to the jurisdiction set 06/28/01. Plea granted. Case dismissed. Court of Appeals affirmed dismissal. Plaintiff filed Petition for Review to Texas Supreme Court. Response filed 08/21/02. Briefs on Merits requested by Court. Petitioner's brief filed 11/04/02. Respondent's brief filed 11/25/02. Supreme Court will hear argument 03/27/03.

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## Closed Cases

***Academy ISD v. Rylander, et al.*** Cause #GV202340

AG Case #021647615

Property Tax;	Asst. AAG Assigned:	Jana Kinkade
Administrative Appeal,		
Injunction & Declaratory	Plaintiff's Counsel:	Kirk Swinney
Judgment		Harvey M. Allen
Filed: 07/26/02		Javier B. Gutierrez
Period: 2001		McCreary, Veselka,
Amount: \$		Bragg & Allen
		Austin

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties. Whether the Comptroller's certification of inaccurate values for some districts violates constitutional guarantees of efficient education and equal protection. Plaintiff also seeks attorney's fees.

Status: Agreed Judgment signed 02/11/03.

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***Bank of Texas, National Association (Formerly Swiss Avenue State Bank) v. Comptroller of Public Accounts*** Cause #GN103976

AG Case #01535283

Franchise Tax; Protest &	Asst. AAG Assigned:	Blake Hawthorne
Declaratory Judgment		
Filed: 12/03/01	Plaintiff's Counsel:	J. Lawrence Temple
Period: 2001		Temple & Temple
Amount: \$218,056.52		Austin
		Frederic Dorwart
		Tulsa, Oklahoma

Issue: Whether conversion from a state bank to a national bank is a merger for franchise tax purposes. Whether the national bank must file an initial return. Whether treatment of the conversion as a merger is preempted by federal law.

Status: Motion for Summary Judgment hearing on hold. Agreed Judgment entered 12/19/02.

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**Belton ISD v. Comptroller of Public Accounts** Cause #GV202349

AG Case #021651898

Property Tax;  
Administrative Appeal  
Filed: 07/26/02  
Period: 2001  
Amount: \$

Asst. AAG Assigned:

Jana Kinkade

Plaintiff's Counsel:

R. Lawrence Macon  
Donna K. Schneider  
Akin, Gump, Strauss,  
Hauer & Feld  
San Antonio

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties. Whether the Comptroller failed to consider local modifiers, sales and market information. Whether utility property appraisal includes intangible value. Whether Belton ISD should be treated like McLennan County districts.

Status: Agreed Judgment signed 02/13/03.

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**Briscoe, Billy R. v. Rylander, et al.** Cause #GN103316

AG Case #011509502

Sales Tax; Declaratory  
Judgment  
Filed: 10/09/01  
Period: 1975-1979  
Amount: \$140,000

Asst. AAG Assigned:

Christopher Jackson

Plaintiff's Counsel:

James F. Martens  
Stahl, Martens & Bernal  
Austin

Issue: Whether plaintiff owes motor vehicle sales tax on trailers affixed to real property. Whether plaintiff may recover damages for harm to his credit rating caused by the Comptroller. Plaintiff seeks release of liens, economic damages and attorneys' fees.

Status: Settled.

---

**Gorman ISD v. Rylander, et al.** Cause #GV202344

AG Case #021647896

Property Tax;  
Administrative Appeal,  
Injunction & Declaratory  
Judgment  
Filed: 07/26/02  
Period: 2001  
Amount: \$

Asst. AAG Assigned:

Christopher Jackson

Plaintiff's Counsel:

Kirk Swinney  
Harvey M. Allen  
Javier B. Gutierrez  
McCreary, Veselka,  
Bragg & Allen  
Austin

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties. Whether the Comptroller's certification of inaccurate values for some districts violates constitutional guarantees of efficient education and equal protection. Plaintiff also seeks attorney's fees.

Status: Agreed Judgment signed 01/23/03.

---

**Mineral Wells ISD v. Comptroller** Cause #GV202461  
AG Case #021652052

Property Tax; Administrative Appeal Filed: 08/01/02 Period: 2001 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Ray Bonilla Ray, Wood & Bonilla Austin
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Issue: Whether the Comptroller erred by not properly selecting and inspecting sample properties. Whether the Comptroller considered the effect of personal property in sales transactions.

Status: Agreed Judgment signed 01/27/03.

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**Moody ISD v. Rylander, et al.** Cause #GV202342  
AG Case #021647912

Property Tax; Administrative Appeal, Injunction & Declaratory Judgment Filed: 07/26/02 Period: 2001 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Kirk Swinney Harvey M. Allen Javier B. Gutierrez McCreary, Veselka, Bragg & Allen Austin
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Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties. Whether the Comptroller's certification of inaccurate values for some districts violates constitutional guarantees of efficient education and equal protection. Plaintiff also seeks attorney's fees.

Status: Agreed Judgment signed 02/04/03.

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***Nacogdoches ISD v. Rylander*** Cause #GN202442

AG Case #021647664

Property Tax;	Asst. AAG Assigned:	Christopher Jackson
Administrative Appeal		
Filed: 07/26/02	Plaintiff's Counsel:	Ray Bonilla
Period: 2001		Randall B. Wood
Amount: \$		Ray, Wood & Bonilla
		Austin

Issue: Whether the Comptroller erred by misapplying burden of proof and not properly valuing sample properties that involved creative financing.

Status: Agreed Judgment signed 01/27/03.

---

***Northside ISD v. Rylander, et al.*** Cause #GV202341

AG Case #021647920

Property Tax;	Asst. AAG Assigned:	Jana Kinkade
Administrative Appeal,		
Injunction & Declaratory	Plaintiff's Counsel:	Kirk Swinney
Judgment		Harvey M. Allen
Filed: 07/26/02		Javier B. Gutierrez
Period: 2001		McCreary, Veselka,
Amount: \$		Bragg & Allen
		Austin

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties. Whether the Comptroller's certification of inaccurate values for some districts violates constitutional guarantees of efficient education and equal protection. Plaintiff also seeks attorney's fees.

Status: Agreed Judgment signed.

---

***Ranger ISD v. Rylander, et al.*** Cause #GV202343

AG Case #021647938

Property Tax;	Asst. AAG Assigned:	Christopher Jackson
Administrative Appeal,		
Injunction & Declaratory	Plaintiff's Counsel:	Kirk Swinney
Judgment		Harvey M. Allen
Filed: 07/26/02		Javier B. Gutierrez
Period: 2001		McCreary, Veselka,
Amount: \$		Bragg & Allen
		Austin

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties. Whether the Comptroller's certification of inaccurate values for some districts violates constitutional guarantees of efficient education and equal protection. Plaintiff also seeks attorney's fees.

Status: Agreed Judgment signed 01/29/03.

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**State Farm Life Insurance Co. v. Cornyn, et al.** Cause #99-07980  
AG Case #99-1187642

Gross Premium Tax; Protest, Refund & Declaratory Judgment Filed: 07/13/99 Period: 1990 1992 1994 Amount: \$1,027,067.59 \$395,949.71 \$294,607.28	Asst. AAG Assigned:  Plaintiff's Counsel:	Christine Monzingo  Michael W. Jones Thompson, Coe, Cousins & Irons Austin
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Issue: Whether Plaintiff's debt instruments are mortgage loans or corporate bonds or other obligations for purposes of its Texas investments allocation. Whether Plaintiff's interests in limited partnerships qualified as real estate investments. Whether allocation of quarterly U.S. bond holdings was proper. Whether calculation of bank balances was proper. Alternatively, whether penalty should be waived. Plaintiff seeks attorneys' fees.

Status: Agreed Judgment signed 02/21/03.

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**Unit 82 Joint Venture v. Rylander, et al.** Cause #GN001888  
AG Case #001327964

Sales Tax; Protest Filed: 07/03/00 Period: 07/01/93- 12/31/96 Amount: \$44,519.03	Asst. AAG Assigned:  Plaintiff's Counsel:	Scott Simmons  H. Christopher Mott Krafsur Gordon Mott Davis & Woody El Paso
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Issue: Whether Plaintiff's initial finish-out work is non-taxable new construction.

Status: Agreed Judgment signed 01/16/03.

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